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Security Council

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Letter dated 23 February 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the statement by the Ministry of Foreign Affairs of the Republic of Azerbaijan regarding the incident which took place on 19 February 2004 in Budapest, Hungary, when an Armenian officer was murdered (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Elshad **Iskandarov**
Chargé d'affaires a.i.

04-24940 (E) 250204

Annex to the letter dated 23 February 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

Statement by the Ministry of Foreign Affairs of the Republic of Azerbaijan

20 February 2004

The Ministry of Foreign Affairs of the Republic of Azerbaijan expresses its regret with regard to the incident, which took place in Budapest on 19 February 2004, where an Armenian officer was murdered, and extends its condolences to his colleagues and family.

The Ministry draws attention to the fact that Ramil Safarov, an Azerbaijani military officer, detained as a suspect in the murder, belongs to a refugee family from the Jabrail district of Azerbaijan, which had been seized by Armenian aggressors. All the property of his family has been looted and several of his relatives have been killed by the invaders. According to the information available so far, the Armenian officer had repeatedly made humiliating statements addressed to Ramil Safarov, offending his honour and dignity as a citizen and officer of the Republic of Azerbaijan and insulting the memory of the victims of Armenian aggression. All that could not but affect the emotional condition of Ramil Safarov.

Azerbaijan urges the Armenian side to refrain from accusatory statements and assessments towards the Government and people of Azerbaijan. The incident in Budapest should not be allowed to accelerate further deterioration of already tense relations between Armenia and Azerbaijan. The incident is yet more evidence of the intensity of the situation stemming from the unresolved status of the conflict, and proves the need for increased efforts by the international community to settle the conflict on the basis of the principles of international law. This is the only way to overcome the enmity between two nations and pave the path towards peace and good-neighbourliness.

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25 February 2004

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Letter dated 23 February 2004 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1343 (2001) concerning Liberia, containing an account of the Committee's activities from 1 January to 20 December 2003. The report, which was adopted by the Committee today, 23 February 2004, is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Ismael Abraão **Gaspar Martins**
Acting Chairman
Security Council Committee established pursuant to
resolution 1521 (2003) concerning Liberia

04-24990 (E) 270204

Annex

Report of the Security Council Committee established pursuant to resolution 1343 (2001) concerning Liberia

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1343 (2001) concerning Liberia covers the period from 21 December 2002 to 22 December 2003, when the Security Council decided, in its resolution 1521 (2003), to dissolve the Committee and to revise the legal basis of the sanctions to reflect the changed circumstances in Liberia, in particular the departure of former President Charles Taylor, the formation of the National Transitional Government of Liberia and progress with the peace process in Sierra Leone. This final report of the Security Council Committee established pursuant to resolution 1343 (2001) is therefore submitted pursuant to paragraph 21 (f) of resolution 1521 (2003), by which the Committee is authorized to take action on pending issues concerning the measures imposed by resolutions 1343 (2001), 1408 (2002) and 1478 (2003) while those resolutions were in force.

2. A report of the Committee covering its activities from January to December 2002 was submitted to the Security Council on 20 December 2002 (S/2002/1394).

3. The Bureau consisted of Ambassador Munir Akram (Pakistan) as Chairman, the delegations of Angola and the Syrian Arab Republic providing the Vice-Chairmen. During this period the Committee held six formal meetings in addition to informal consultations.

II. Background information and summary of the work of the Committee

A. Background information

4. By paragraph 3 of resolution 1458 (2003) of 28 January 2003, the Security Council decided to re-establish the Panel of Experts appointed pursuant to paragraph 16 of resolution 1408 (2002) for a period of three months to conduct a follow-up assessment mission to Liberia and neighbouring States. The Panel commenced work on 19 February 2003 and issued its report on 24 April 2003 (S/2003/498).

5. By paragraph 10 of resolution 1478 (2003) of 6 May 2003, the Security Council decided that the arms embargo, the prohibition on the import of rough diamonds from Liberia, and the restrictions on travel for individuals designated by the Committee, first imposed by paragraphs 5 to 7 of resolution 1343 (2001) and extended by paragraph 5 of resolution 1408 (2002), would remain in force for a further period of 12 months.

6. By paragraph 17 of resolution 1478 (2003), the Council decided that all States should take the necessary measures to prevent, for a period of 10 months commencing at 0001 hours eastern daylight time on 7 July 2003, the import of all round logs and timber products originating in Liberia.

7. By paragraph 18 of resolution 1478 (2003), the Council decided to consider by 7 September 2003 how best to minimize any humanitarian or socio-economic impact of the measures imposed by paragraph 17 of the resolution.

8. By paragraph 24 of resolution 1478 (2003), the Council requested the Committee to carry out the tasks set out in that resolution and to continue with its mandate as set out in paragraph 14 (a) to (h) of resolution 1343 (2001) and in resolution 1408 (2002).

9. By paragraph 25 of resolution 1478 (2003), the Council requested the Secretary-General to establish, in consultation with the Committee, a Panel of Experts appointed for a period of five months, to conduct a follow-up assessment mission to Liberia and neighbouring States. The Panel commenced work on 9 June 2003 and issued its humanitarian and socio-economic impact assessment report on 7 August 2003 (S/2003/779), and its final report on 28 October and 6 November 2003 (S/2003/937 and Add.1).

B. Summary of the activities of the Committee

10. During the reporting period, the Committee received 11 notifications of travel submitted in accordance with paragraph 7 (a) of resolution 1343 (2001), as extended by paragraph 5 of resolution 1408 (2002) and paragraph 10 of resolution 1478 (2003), and considered 29 requests for travel ban waivers under paragraph 7 (b) of resolution 1343 (2001), as extended by paragraph 5 of resolution 1408 (2002) and paragraph 10 of resolution 1478 (2003), of which 22 were granted. It should also be recalled that 2 of the 54 requests for travel ban waivers submitted to the Committee in 2002 were still under consideration when its annual report for 2002 was issued (see S/2002/1394, para. 8). The Committee approved those two requests on 26 and 30 December 2002, respectively. The Committee received no requests for exemption of non-lethal military equipment under paragraph 5 (c).

11. The Committee conducted reviews of the travel ban list on three separate occasions, namely, on 3 March, 6 June and 4 September 2003, during which it considered 10 requests for names to be deleted from the list. Three requests were submitted in December 2002 and one request included two names of individuals who are next of kin. The Committee decided to retain the names of nine persons and to remove the names of two persons. There was no request to add any name to the list. The travel ban list was reissued on 9 June 2003.

12. On 25 June 2003, the Committee approved the removal of two persons, reportedly deceased, from the list of members of the Revolutionary United Front subject to the measures set out in paragraph 2 (a) of resolution 1343 (2001). The list was reissued on 25 June 2003.

13. The Committee had discussions on but was not able to adopt guidelines for the conduct of its work as mandated under paragraph 14 (c) of resolution 1343 (2001). This has however not deterred the Committee from discharging its mandate effectively, nor has it prevented the Committee from accomplishing much of what it set out to achieve. It should be noted that, on 18 March 2003, the Committee adopted revised procedures for updating and maintaining the list of persons subject to travel restrictions pursuant to resolution 1343 (2001) and also for handling requests for exemptions from the travel restrictions contained in paragraph 7 (a) of resolution 1343 (2001). Those procedures were subsequently transmitted to the Permanent Mission of Liberia to the United Nations and to the United Nations Peace-building Support Office in Liberia (UNOL), and were also posted on the Committee's web site.

14. Pursuant to paragraph 18 of resolution 1343 (2001), by which States are requested to report to the Committee, within 30 days of the promulgation of the

travel ban list, on the actions they have taken to implement the measures imposed by paragraphs 5 to 7. 52 replies were received from States to date in response to the Committee's note verbale of 7 June 2001, its follow-up note of 27 August 2001, its note of 30 May 2002, which was issued pursuant to paragraph 15 of resolution 1408 (2002), and its note of 23 June 2003. The total number of replies received by the Committee on action taken to implement the measures imposed by paragraphs 5 to 7 of resolution 1343 (2001), as extended by paragraph 5 of resolution 1408 (2002), is 64 (replies received from States pursuant to paragraph 18 of resolution 1343 (2001) and paragraph 15 of resolution 1408 (2002) during the period covered by the present report are listed in the appendix).

15. In paragraph 10 of resolution 1408 (2002), the Security Council called upon the Government of Liberia to take urgent steps, including through the establishment of transparent and internationally verifiable audit regimes, to ensure that revenue it derived from the Liberian Shipping Registry and the Liberian timber industry was used for legitimate social, humanitarian and developmental purposes, and to report back to the Committee on the steps taken and the results of such audits not later than 6 August 2002. The Committee received a letter dated 20 February 2003 from the Permanent Representative of Liberia transmitting Phase II of the Management and Systems Audit of the Bureau of Maritime Affairs and the Forestry Development Authority conducted by Voscon, Inc. pursuant to paragraph 10 of resolution 1408 (2002). The Committee subsequently decided to transmit Phase II of the audit to the Panel of Experts on Liberia on 3 March 2003.

C. Violations and alleged violations of the sanctions regime

16. Under paragraph 14 (b) of resolution 1343 (2001), the Committee is mandated to consider, and to take appropriate action, on information brought to its attention by States concerning alleged violations of the measures imposed by paragraphs 5 to 7 of that resolution (and extended by paragraph 5 of resolution 1408 (2002) and paragraph 10 of resolution 1478 (2003)), identifying where possible persons or entities, including vessels or aircraft, reported to be engaged in such violations, and to make periodic reports to the Council.

17. On 13 February 2003, in response to information brought to the Committee's attention by one of its members, the Chairman addressed letters to the Permanent Representatives of Liberia and the Libyan Arab Jamahiriya to the United Nations seeking clarification regarding an unscheduled stopover in the Libyan Arab Jamahiriya made by the President of Liberia, Charles Taylor, and his delegation on their return to Liberia following the Conference of Heads of State on Côte d'Ivoire held in Paris on 25 and 26 January 2003. On 23 January 2003, the Committee had authorized President Taylor's delegation to travel to the summit meeting in Paris. The Committee had not however authorized any stopover in the Libyan Arab Jamahiriya. After considering the replies received from Liberia and the Libyan Arab Jamahiriya, and following a subsequent exchange of correspondence with the authorities of France and Togo, the Committee agreed, on 25 July 2003, that the unauthorized stopover in Sirte of the aircraft carrying President Taylor and his delegation occurred in violation of the travel ban imposed by resolution 1343 (2001). The Chairman subsequently addressed a letter to the Permanent Representative of Liberia, dated 31 July 2003, drawing the attention of the Government of Liberia to this incident and reminding its authorities of their obligations under the relevant Security Council resolutions. No consensus could be reached in the Committee regarding the dispatch of a similar letter to the authorities of the Libyan Arab Jamahiriya.

18. Other information concerning violations of the sanctions regime has come to the Committee's attention through the reports of the Panel of Experts established pursuant to paragraph 19 of resolution 1343 (2001) (S/2001/1015); paragraph 5 of resolution 1395 (2002) (S/2002/470); paragraph 16 of resolution 1408 (2002) (S/2002/1115); paragraph 3 of resolution 1458 (2003) (S/2003/498); and paragraph 25 of resolution 1478 (2003) (S/2003/937 and Add.1). On 25 February 2003, the Committee requested the Chairman to address 13 letters seeking information from States that, according to the Panel of Experts (see S/2002/1115), had allegedly violated the sanctions regime. The Committee received responses from Ghana, Guinea, Liechtenstein and Serbia and Montenegro. To date, no responses have been received from Chad, the Congo, Côte d'Ivoire, the Gambia, Nigeria, the Republic of Moldova, Sierra Leone, Ukraine and Zambia. This does not include any response which these countries might have provided to the Panel of Experts, either verbally or in writing, when the Panel was constituted. In addition, the Gambia and Sierra Leone did respond to the alleged violations of the Liberia sanctions regime in separate letters addressed to the Chairman of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone, who subsequently forwarded them to the Chairman of the Security Council Committee established pursuant to resolution 1343 (2001) concerning Liberia.

19. Pursuant to paragraph 17 of resolution 1478 (2003), an embargo on the importation of all round logs and timber products originating in Liberia for a period of 10 months came into force at 0001 hours eastern daylight time on 7 July 2003. In this regard, the Committee received a letter from the Representative of the Secretary-General and Head of UNOL dated 28 May 2003, transmitting a letter from Agnes Cooper of Berakah Home Furnishing, Inc., who sought clarification on the scope of the timber sanctions. The Committee requested the Panel of Experts to provide its views on the scope of the timber embargo, and the Panel replied in a letter dated 19 June 2003. The Committee then held its own deliberations on the matter and, on 30 June 2003, the Chairman sent a reply to the Representative of the Secretary-General and Head of UNOL, requesting him to advise Mrs. Cooper that the scope of timber sanctions included "all round logs and timber products originating in Liberia", as specified in paragraph 17 of Security Council resolution 1478 (2003), including manufactured products such as those produced by her company.

20. The Committee also received a letter from the Permanent Mission of Liberia transmitting a letter from the Marketing Director of Evergreen Trading Corporation seeking the Committee's assistance in connection with a shipment of plywood originating in Liberia which was being held in Antwerp, Belgium, since the shipment had not cleared customs before 7 July 2003, when the Security Council's timber sanctions went into force. Following a subsequent exchange of correspondence with Evergreen Trading Corporation and the Permanent Mission of Belgium, and after obtaining the views of the Legal Counsel of the United Nations, the Committee decided that the matter fell wholly within the competence of the Government of Belgium.

D. Other activities

21. On 10 February 2003, the Chairman wrote to the Under-Secretary-General for Political Affairs to seek his views on the measures the United Nations might contemplate to counter the negative propaganda by the Government of Liberia in connection with the Security Council's sanctions in the light of the observation made by the Panel of Experts (see S/2002/1115). In his reply dated 17 March 2003,

the Under-Secretary-General for Political Affairs recalled that, under the new mandate that had been proposed for the United Nations Peace-building Support Office in Liberia, UNOL would engage in an educational campaign to present accurately United Nations policies and activities regarding Liberia. The Under-Secretary-General drew the attention of UNOL to the concerns raised by the members of the Committee and by the Panel of Experts on Liberia, and he also transmitted the Chairman's letter to the head of the Department of Public Information for his attention.

22. On 5 May 2003, pursuant to paragraph 20 of resolution 1408 (2002), the Chairman briefed the Security Council as part of the Council's second review of the sanctions imposed by paragraphs 5 to 7 of resolution 1343 (2001) and extended by paragraph 5 of resolution 1408 (2002).

23. On 26 August 2003 the Chairman briefed the Security Council on the Committee's deliberations on the reports submitted pursuant to resolution 1478 (2003) by the Secretary-General and the Panel of Experts on Liberia on the possible humanitarian and socio-economic impact of the timber sanctions that went into effect on 7 July 2003.

24. On 6 November 2003 the Chairman briefed the Security Council as part of the Council's first review of its sanctions measures concerning Liberia pursuant to paragraph 32 of resolution 1478 (2003). The Chairman noted that, at the Committee's formal meeting held on 3 November 2003, the Panel of Experts had presented new information based in part on a visit by some Panel members to Monrovia, which had been feasible only after the submission of the Panel's report. The Chairman therefore presented a preliminary report on the discussions held in the Committee thus far on the most recent report of the Panel of Experts (S/2003/937). The Chairman sought the Council's approval for some additional time to enable the Committee to reflect more thoroughly on the Panel's report and its wide-ranging recommendations and to formulate well-considered recommendations for the Council in order to facilitate the Council's sanctions review. The Council acceded to the request. The Committee subsequently met four more times to complete its discussion on the report and recommendations of the Panel of Experts. On 7 November, the Committee agreed that the Chairman should write to the National Transitional Government of Liberia, ECOWAS, the Department of Peacekeeping Operations and the United Nations Mission in Liberia (UNMIL) to seek their views on the sanctions as well as on the latest recommendations of the Panel of Experts. The National Transitional Government of Liberia, UNMIL and the Department of Peacekeeping Operations subsequently conveyed replies to the Chairman's letter. On 4 December 2003, the Chairman provided a fuller report to the Security Council, as the Council completed its first review under paragraph 32 of resolution 1478 (2003), concluding its consideration of the final report of the Panel of Experts (S/2003/937 and Add.1) and the relevant information provided by the Committee.

Appendix

Replies received from States in accordance with paragraph 18 of Security Council resolution 1343 (2001) and paragraph 15 of resolution 1408 (2002)

	State	*Date of report*	*Symbol*
1.	Syrian Arab Republic	2 January 2003	S/AC.39/2003/1
2.	Cyprus	27 January 2003	S/AC.39/2003/2
3.	South Africa	4 February 2003	S/AC.39/2003/3
4.	Romania	20 March 2003	S/AC.39/2003/4
5.	Argentina	23 April 2003	S/AC.39/2003/5
6.	Croatia	7 July 2003	S/AC.39/2003/6
7.	Norway	5 August 2003	S/AC.39/2003/7
8.	Portugal	31 July 2003	S/AC.39/2003/8
9.	Russian Federation	27 August 2003	S/AC.39/2003/9
10.	Austria	10 September 2003	S/AC.39/2003/10
11.	Italy	22 August 2003	S/AC.39/2003/11
12.	Ghana	5 November 2003	S/AC.39/2003/12

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Letter dated 23 February 2004 from the Secretary-General to the President of the Security Council

Following a request from the Iraqi Governing Council and the Coalition Provisional Authority, I dispatched a fact-finding mission to Iraq from 6 to 13 February 2004. This mission was led by my Special Adviser, Mr. Lakhdar Brahimi.

I am pleased to attach herewith a copy of the report on the mission's findings and recommendations, which I fully endorse (see annex).

The terms of reference of the mission called for:

- An assessment of the feasibility of holding direct elections before 30 June 2004;
- A determination of the time frame and conditions required for conducting credible elections consistent with United Nations principles and practices;
- A determination of whether there were other options for representing the will of the Iraqi people within the time frame of the 15 November Agreement, acceptable to all parties and guaranteeing a transparent and inclusive mechanism.

I believe that the dispatch of the fact-finding mission facilitated the emergence among Iraqis of a wide measure of agreement on the need for direct national elections, to be prepared and held under optimal technical, security and political conditions. There remain, however, a number of important outstanding questions. These include the choice of a transitional mechanism that would enjoy the broadest support among Iraqi constituencies and how to implement such a mechanism.

It is clear that more work will be necessary to address fully all questions in a way that best serves the interests of the Iraqi people. I hope that we can build upon the groundwork that has been laid down and engage further with Iraqis on how best to move forward. The United Nations remains fully committed to assisting the Iraqi people in completing the process of recovery and democratization.

The report of the fact-finding mission speaks for itself. I would, however, like to take this opportunity to emphasize once again that a precondition for the United Nations to succeed in Iraq is the clear and unambiguous support of a united Security Council and the establishment of a secure environment. The restoration of Iraq's sovereignty to Iraqis provides an opportunity for the Council to forge such a consensus on both aspects.

(*Signed*) Kofi A. **Annan**

04-24600 (E) 230204

Annex

The political transition in Iraq: report of the fact-finding mission

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I. Introduction

1. The Secretary-General deployed a fact-finding mission to Iraq from 6 to 13 February 2004. This initiative was in follow-up to the meeting he convened in New York on 19 January 2004 with the Governing Council of Iraq and the Coalition Provisional Authority and in response to requests from both parties as well as many Iraqi organizations and personalities, including Ayatollah Ali Sistani, a prominent Shi'a cleric.

2. The fact-finding mission was led by Under-Secretary-General Lakhdar Brahimi, the Secretary-General's Special Adviser, and comprised seven members, including electoral experts from the Department of Political Affairs (see appendix I).

3. During its visit to Iraq, the mission met with a very large number of Iraqis, including political leaders (both those who are represented in the Governing Council and those currently outside the political process), religious leaders, tribal leaders, non-governmental organizations, women's groups, professional associations, human rights organizations, journalists and academics. It also met with the Governing Council, Ambassador Paul Bremer, the Administrator of the Coalition Provisional Authority, and Sir Jeremy Greenstock, the United Kingdom Special Representative for Iraq. In Amman, the mission met with Special Representative of the Secretary-General a.i. Ross Mountain and some members of his team. A United Nations delegation comprising Ambassador Brahimi, Ross Mountain and Jamal Benomar also attended the meeting of Foreign Ministers of neighbouring countries of Iraq (Kuwait, 14 and 15 February 2004).

4. The United Nations fact-finding mission would like to express its appreciation for the warm welcome it received from all Iraqis, as well as their willingness to meet with the team and the time they took to discuss ideas and options about the best way forward in Iraq. The mission also wishes to thank the Governing Council and the Coalition Provisional Authority for their hospitality and the support provided for transport, accommodation and security.

5. Security constraints did not allow the mission to travel outside Baghdad as extensively as it would have liked. Indeed, even in the capital, contacting and organizing meetings with Iraqis was a challenge for the same security reasons. Nevertheless, the mission was able to ascertain the views of a wide spectrum of Iraqis. For its part, the technical component of the mission was able to hold extensive discussions with groups of Iraqi experts, academics and members of political parties who had carried out research on the feasibility of holding elections in the current circumstances.

6. On the basis of these wide-ranging discussions, the mission was able to develop an understanding of the political environment and recent political developments related to the ongoing debate on the governance transition and to form an opinion on the specific issues that the mission was asked to study. Across the political and social spectrum, there was near unanimous agreement that the United Nations should act as a facilitator of this process, providing technical assistance, when required, and also helping form a consensus on the various issues under discussion.

II. The current situation in Iraq

7. The two devastating attacks on the Iraqi police and security forces, which coincided with our visit, illustrated that the insurgency continues to threaten the security of all Iraqis. Little is known about those who were behind these attacks, but they seem determined to disrupt any plans for rebuilding a stable and peaceful Iraq. Nevertheless, we are beginning to see the first stirrings of party political activity, leading to new dynamics among the political elites and communal groups. It is clear that the security situation is inextricably linked to political developments.

8. There are many indications of a growing fragmentation of the political class. Sectarianism is becoming entrenched and inter-communal politics more polarized, all within a context of a political process that remains limited to a few actors, with varying credibility. This competition among the elite is taking place against a backdrop of massive unemployment, particularly among a large young male population. Many interlocutors also speak of rising disillusionment and anger. Nevertheless, with so much at stake, Iraq is a dynamic place, full of ideas and political arguments. We received numerous proposals and ideas from Iraqis, ranging from restoring the monarchy as a solution to the crisis, holding a conference of tribal chiefs to form a government and organizing a national conference or round table to work out an agreement among the major actors to the setting up of a transitional government of technocrats with limited powers.

9. However, there is also a grave sense of history attached to the current situation. In the Sunni community and among the secular elite, there are perceptions that they are witnessing a decisive shift in the balance of power as a result of which they will lose in the new political arrangements that are being put in place. Many Shi'a feel a responsibility to avoid what happened in 1922, which they believe began their disempowerment and persecution. They are committed to correcting this and ensuring the political emancipation of the Shi'a community. Others in the Kurdish community realize that they have made numerous gains since the early 1980's and after the first Gulf War but fear that new arrangements will be at the expense of what they have now. Meanwhile, minority groups feel that a majoritarian system will put them at a huge disadvantage, while women's groups are concerned that the gains made under the secular regimes of the past are under threat from a new system dominated by religious-based parties. A case in point is the decision by the Iraqi Governing Council in December 2003 to repeal the civil code and place family law under the jurisdiction of religious doctrine. This decision has not been enacted into law but women see it as an ominous indication of what might be coming.

10. These developments are simultaneously creating expectations, fears, tensions and distrust. There is reason to hope that the political dynamics in Iraq could evolve into a momentum to build consensus on a new inclusive system of governance that satisfies the aspirations for political emancipation and empowerment but also safeguards against majoritarian politics and protects the rights of minorities and other identity groups within a national entity. But, unless all actors — Iraqis and non-Iraqis — urgently address the most pressing issues, including the security situation, the underlying tensions could fuel the existing potential for civil strife and violence. All must diligently work to prevent the escalation of inter-communal violence and contribute to the slow, arduous process of building trust and the momentum for continued cooperation.

III. The 15 November Agreement and the governance transition process

11. The political situation in Iraq is at another crossroads. On 15 November 2003, the Coalition Provisional Authority and the Governing Council signed an Agreement on the political process to accelerate the transfer of sovereignty from the Coalition Provisional Authority to an Iraqi administration by the end of June 2004. The political developments arising from this Agreement provided the context in which the United Nations fact-finding mission took place.

12. The 15 November Agreement set out the conditions for the dissolution of the Coalition Provisional Authority, with a new transitional assembly and provisional government assuming power. However, key Iraqi figures, including many members of the Governing Council itself, and a number of political and religious groups opposed the caucus-style process suggested as the basis for choosing the transitional assembly. Many, including Ayatollah Sistani, demanded direct general elections and claimed that it was possible to organize a reasonably credible election before 30 June 2004.

13. Although the legitimacy and legality of the 15 November Agreement has been questioned by many Iraqis, it should nevertheless be noted that most Iraqis consulted by the mission emphasized that the Agreement meets the wishes of the Iraqi people for a quick transition that will lead to a provisional government, the restoration of Iraq's sovereignty and the dissolution of the Coalition Provisional Authority. Strong reservations have been expressed about some of the provisions of the Agreement. But the debate has been polarized around the election issue, creating serious tensions that need to be resolved before any meaningful debate can take place on the very important substantive issues still pending.

14. These include such questions as: What should the Fundamental Law currently being drafted contain? What institutions should be put in place during the interim period? What kind of federalism should be adopted and when? What powers should the provisional government after 30 June 2004 possess? What kinds of relations should exist between the national assembly envisaged in the Agreement and the constitutional assembly to be elected in March 2005? What would be the status of the Coalition forces after 30 June 2004? These are but a few of the scores of questions which can properly be addressed only after a decision is taken concerning elections.

15. Nevertheless, the Agreement includes specific details that stipulate key provisions of the Fundamental Law and commit future lawmakers. Specifically, the Governing Council is to draft the Fundamental Law in "close consultation" with the Coalition Provisional Authority. According to the 15 November Agreement, the Fundamental Law should include "the scope and structure of the sovereign Iraqi transitional administration" and what is agreed to by the Governing Council and the Coalition Provisional Authority "cannot be amended". The Fundamental Law is also to specify "the bodies of the national structure", "the process by which individuals will be selected for these bodies" and "the criteria set out for candidates", which can include members of the Governing Council. In effect, a draft interim constitution is to be designed, as well as approved, by the Governing Council with the Coalition Provisional Authority. Some Iraqis noted that the Governing Council will have the power to determine the structure of national political bodies and that there would be

a clear conflict of interest if Governing Council members were to set the criteria for their own participation in these future institutions.

16. In addition, the Agreement refers to a federal Iraqi state, the separation and specification of powers exercised by central and local entities, a bill of rights that also refers to the legislature, a mechanism for judicial review and an expiration date; these are issues that have not been discussed and agreed to by the Iraqi people or their elected representatives. Despite the fact that the Agreement says that the timetable will be set in the Fundamental Law, the Agreement already fixes key dates in the process, with the Fundamental Law to be approved by 28 February 2004, elections for the transitional assembly by 31 May 2004, recognition of this assembly and the dissolution of the Coalition Provisional Authority by 30 June 2004, elections for the constitutional convention by 15 March 2005 and a deadline of 31 December 2005 for elections for a national government.

17. The Agreement also has a section on unspecified security arrangements that gives "wide latitude" for the Coalition forces to provide security. Most importantly, it commits a future provisional government to as yet unknown agreements made between the Coalition Provisional Authority and the Governing Council. During the mission, many Iraqis stressed that only a legitimate transitional or elected government should agree to any bilateral security arrangements with the Coalition. They consider that anything else would be illegitimate and would offer the impression that the process by which security agreements were reached was neither transparent nor accountable.

18. The Agreement devotes considerable attention to a transitional national assembly, a legislature, to which Iraq's sovereignty would be transferred. As to the provisional government, members of the national assembly would elect an executive branch as well as appoint ministers. There are no details about the process for selecting the head of this executive authority or its mandate. There is to be no direct election to this transitional national assembly. Members would be elected by a "governorate selection caucus" to represent the governorate based on its percentage of the Iraqi population. The selection of candidates to the caucus would be organized and approved by organizing committees, composed of individuals appointed by the Governing Council and by provincial and local councils.

19. Iraqis opposed to this plan objected that the provincial and local councils were all created and supported by Coalition military commanders and that although the Governing Council was supposed to disband, its members would be eligible to be elected to the assembly while themselves having set the election criteria. Many Iraqi interlocutors also warned that on the basis of the Agreement, two assemblies would be in place by March 2005: a "selected" national legislative assembly and an elected constitutional assembly, both running concurrently, which might create the potential for political strife.

20. It should be recalled that the current political impasse originated in June 2003 with the controversy over the process through which the country's constitution would be drafted by a constitutional convention "selected" by the Coalition Provisional Authority: this led to Ayatollah Sistani issuing a "fatwa" calling for an elected constituent assembly to draft the country's constitution.

IV. Key observations

21. As mentioned earlier, there is a deadlock over the issue of direct elections versus the caucus-style process prescribed by the Agreement. At the end of the long discussion held by the mission at both the political and technical levels, a consensus was forming in Iraq that it would be extremely difficult and perhaps even hazardous to try to organize general elections before 30 June 2004. There was equally a consensus that the caucus system as currently conceived is not a viable option. The Coalition Provisional Authority itself accepts that it would be impractical to try and implement this system, which is totally alien to Iraqis. Other options need to be developed and pursued. But they can only come from the Iraqis themselves through dialogue and consensus-building.

22. It goes without saying that no one denies the importance of elections. First, the right to take part in the governance of one's country is a basic human right. This right is proclaimed and guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and is recognized in many other treaties and declarations. Countries and peoples around the world have recognized that free and fair elections are an important milestone in the continuum of democratization and an important means of giving voice to the will of the people, which is the basis of governmental authority itself.

23. Second, there is consensus among all Iraqis that elections are an important step in the long road towards establishing democratic governance based on the rule of law. Elections in themselves do not constitute democracy. They are not an end but a step, although an important and essential one, in the path towards a peaceful, stable and united Iraq. Much debate has been devoted to the establishment of a provisional legislative assembly. In fact, many Iraqis have queried whether a legislative assembly would even be necessary during a short transition period. Would it not be simpler and more effective to develop consensus on establishing a provisional, caretaker government, with clear and limited powers to prepare the country for free and fair elections and manage the country during the transitional period and the process that establishes it?

24. As indicated in the detailed technical report contained in appendix II to the present report, elections will need a minimum preparation time of about eight months **after** the legal framework has been completed. If work was started immediately and the required political consensus was reached fairly rapidly, it would be possible to hold elections by the end of 2004. In the light of this, would it be necessary to elect, two or three months later, a constitutional assembly? Most Iraqis the mission met were of the firm view that a single assembly might very well act as both a legislative and a constitutional assembly. The time frame set for the completion of the constitution would not be affected.

25. Numerous interlocutors expressed the need to develop new ideas for a more inclusive and transparent transitional process to establish a national unity provisional government. In this context, many Iraqis further stressed that what is needed is a broad-based government that is not based on quotas, one that ideally would be primarily composed of competent technocrats.

26. There were many other ideas on the ground. Some suggestions have been made that the life of the existing Governing Council be extended so that it could act as the interim administration between 30 June 2004 and the national elections, or that it

should be enlarged (150 to 200 members) to act as a transitional legislative body that would elect the provisional government. Some Iraqis urged the United Nations to give serious consideration to the idea of a national conference that is emerging within Iraq from respected Iraqi figures. They believe that by inviting delegates from across Iraqi society, a national conference would offer a more legitimate means of establishing a transitional government. They recognized that it would not be fully democratic but argued that it would nevertheless be inclusive and participatory. Criteria and rules of procedure would need to be elaborated on who would participate, but a national conference typically invites every type of political and social constituency and operates on the basis of democratic transparency. From the conference, a set of principles governing the transition period would be produced (**not** a constitution) and an agreement on a provisional national unity government reached.

27. Others felt that a national conference could be a forum to amend and approve the draft Fundamental Law. Depending on its rules of procedure and how it functioned, some stated that it is conceivable that this conference could be transformed into a provisional national assembly at a later date. A number of Iraqis suggested that the United Nations could facilitate the process of building consensus leading to an agreement on a national conference and could then convene the conference.

28. Others favoured a smaller forum or round table, consisting of the main political, professional, religious and other identity groups representing the full diversity of Iraqi society to develop consensus on the setting up of a caretaker authority to manage the transitional process after 30 June 2004, with a particular focus on the electoral and constitutional processes. According to this view, a round table could produce credible interim arrangements affirming the protection of human rights and a participatory constitution-making process.

29. Many Iraqis stressed that new initiatives are urgently needed to rebuild trust, promote inclusion and explore new options. Other Iraqis affirmed that the way out of this impasse is for the United Nations, working in partnership with the Iraqis, the Coalition Provisional Authority and Iraq's neighbours, to assist the Iraqis in building consensus on a political framework that will produce a "road map" for the governance transition and assist in the establishment of a transitional government to bring this to fruition.

V. The electoral process

30. The analysis of the electoral process and the details involved is fully developed in the technical analysis prepared by the electoral assistance members of the United Nations mission (see appendix II).

31. In consolidated democracies, the time frame of an electoral process can be readily estimated, given that most legal and institutional frameworks already exist. Since the machinery is already in place, with the rules of the game well defined and agreed upon by all stakeholders, it is only necessary to provide some modest support to fine-tune what already exists before engaging in the implementation of an electoral process that includes fairly precise deadlines.

32. However, in transitional situations, an electoral process often needs to be developed from nothing, building up from scratch all the elements required to enable the preparation and the conduct of the process. The time required for meeting the necessary preconditions is not easy to estimate, in particular those involving political consensus. Consequently, the approximate time frame for organizing transitional elections can only be estimated from the moment that three major conditions have been met. Those conditions are: (a) a legal framework in place; (b) an institutional framework in place; and (c) availability of the required resources.

33. In Iraq, none of these conditions exist and there is considerable disagreement over the most fundamental aspects. In fact, the mission found that most of the debate centred on operational aspects, such as voter lists, while overlooking the legal, political and security framework without which an election cannot take place.

34. An electoral timetable necessarily depends on the modalities chosen for the election: an election on a single (national) constituency under a proportional representation system using party lists will be easier (and quicker) to organize than an election using a first-past-the-post system with a great number of single-member districts. The issue of an electoral register is sensitive, and the option chosen for the establishment of a credible electoral roll will affect the length of the process.

35. In terms of establishing a credible electoral roll, a number of different options can be tried; historically in Iraq, the electoral rolls have been derived from a population census. This option is not feasible, as it is estimated that a fully fledged census would take up to five years, including preparation time. Moreover, the polling allocation under this modality presents serious problems. Two other options are available: a dedicated voter registration exercise (probably the preferred option) or deriving the electoral roll from existing databases (such as the public distribution —"ration cards" — database). Nevertheless, it is important to note that in both cases, but particularly the latter one, a social validation period is indispensable — that is to say, a period during which the initial data is exhibited to the public and corrected as required.

36. As mentioned, a generic estimation can be made based on previous experience and the standard tasks required for the election of a representative body. The necessary stages for the preparation of the process would include, among others, the definition of all electoral procedures and the preparation of the necessary procedural manuals; the registration of political parties and/or candidates; a regulation defining political financing; a regulation concerning electoral campaigning; the accreditation of electoral observers; the launching of public information and voter education initiatives; the procurement and assembly of electoral material (for the various electoral operations); the mapping and choice of polling locations and assignments; and the logistic preparation for polling, counting and tallying results. In addition, should it be decided to allow for registration and voting for Iraqis abroad, it will be necessary to determine the regulatory framework and establish a full operational plan for out-of-country voting.

37. In countries with conditions and characteristics similar to those of Iraq, it is possible to say that the minimum time required for preparing a credible transitional election would be no less than eight months from the time the three conditions described above are met, that is to say, once the political agreements have been formalized in a legal framework and once the basis of a functional electoral

management body have been established and the necessary resources are made available. If it is anticipated that an election should take place by January 2005, it would be necessary to reach the basic agreements that would form the backbone of an electoral law by May 2004.

38. An improved security environment is a precondition for the conduct of free and fair elections in Iraq. Lack of security could lead to major disturbances, undermining the administration of the election, altering the established timetable and compromising the overall credibility of the process. Just as important is to have an environment that permits respect for the civil and political rights of candidates, parties and voters, ensures free campaigning and a free choice, and guarantees free speech, opinion, information, assembly, movement and association during elections. While transitional contexts are not always the most conducive for credible elections, minimum conditions should be ensured to allow for the process to be a successful one, whose results are accepted by all parties. Security is therefore a major conditioning factor in ensuring the legitimacy of the process. The current circumstances, resulting in widespread fear and anxiety among the population, are a major obstacle to the success of an election. The existence of militias (especially if connected with political movements) could also be the source of coercion and intimidation that would undermine the political credibility of the exercise.

39. It is important that the electoral campaign and the election itself be monitored by independent observers. Rules regulating the media as well as efforts by the international community to offer unbiased information might prove crucial. In addition, these first elections will provide an opportunity for democratic empowerment, in which local groups can be trained to act as media and polling monitors.

40. There is an assumption that elections mark the beginning of an irreversible process leading to democracy, and that after democratic elections it is difficult to return to authoritarian rule. Another assumption is that leaders who benefit from the demise of an authoritarian regime also benefit from the eventual consolidation of democracy. Both assumptions are inaccurate. Elections that are not properly prepared and that are held without the best possible conditions first being established often lead to "token" democracies and radicalized politics, and undermine compromise among stakeholders and coalition-building. This is particularly relevant in situations where rule-of-law institutions are weak and incapable of managing political debate and conflict.

VI. Conclusion

41. Iraq faces the difficult task of finding institutions capable of channelling political contestation into legitimate directions. During this process, decisions will be made as to the limits and practices of the new political system; the rights and duties of its citizens; how to represent the will of the people; how to achieve a consensus on the future of the state; and how to ensure respect for universal principles, such as respect for human rights and democratic governance.

42. Given more than three decades of despotic rule without the basic elements of the rule of law, a ruined economy, a devastated country, the collapse of state institutions, the low level of political will for reconciliation, and distrust among some Iraqis, conditions in Iraq are daunting. Iraq suffers from the standard ills of

countries that have not succeeded in developing democratic governance: poverty, little if any experience of democracy, and a history of maintaining domestic stability through oppression and violence. We need to be realistic about the prospects and speed of reform; time is needed to allow wide-ranging consultation and consensus-building on challenging issues. A thorough, unrushed and consultative process is essential. Nevertheless, the mission notes with appreciation that after decades of authoritarianism Iraqis are very eager to move to a new chapter in their history by finding political solutions to their problems through consensus-building. It was significant that the term "tawafuq" (i.e., consensus-building) was repeated again and again throughout our consultations.

43. The challenges of working out a legitimate political process that will lead to a democratically elected government are enormous. Establishing security throughout the country, building trust with the Iraqi people, drafting a constitution and building consensus among different Iraqi factions are formidable problems. These problems will confront the United Nations when it assumes the "vital role" that both the people of Iraq and the international community tell us that they want the United Nations to undertake. The international legitimacy of the United Nations is not enough by itself to ensure the success of the process. Much will depend on the role of the Iraqis and their willingness to compromise in the interests of their nation rather than for sectoral or individual interests. Much will also depend on what mandate the United Nations has from the Security Council, what the United Nations does and is seen to be doing by Iraqis, regional actors and the international community at large, and how well it performs this role.

44. Iraqis wholeheartedly believe that the sooner an Iraqi government is in place, the better, so as to restore to the people of Iraq their sense of dignity and control over their destiny. To that end, they do not wish to see any delay in the restoration of Iraqi sovereignty. Virtually every Iraqi with whom the mission met stressed that the date of 30 June 2004 is a deadline that must be respected.

45. That having been said, they recognized that they find themselves in a very serious dilemma. Iraqis inside and outside the Governing Council appear to agree that, ideally, Iraqi sovereignty should be restored to a democratically elected government. But many acknowledged the risks pointed out to them by our mission about prematurely conducting elections; in the mission's view, at least eight months are required to prepare a credible election in Iraq, once the legal framework is agreed upon.

46. Thus, it is not possible to maintain the 30 June 2004 deadline while concurrently ensuring that sovereignty is restored at the outset to a democratically elected government.

47. In that context, there appears to be an emerging consensus that a provisional government will need to be formed by 30 June 2004 through some mechanism other than direct elections. While the caucus-style system envisaged in the 15 November Agreement is one such mechanism, it does not appear to enjoy sufficient support among Iraqis to be a viable option any longer. A consensus will need to be forged on another mechanism, building on discussions that have taken place to date.

48. Irrespective of what mechanism is decided upon for the formation of a provisional government, it must be understood that it will be short-lived and will need to give way, as soon as possible, to a democratically elected and fully fledged

government. In order for that fully fledged government to be established as quickly as possible, preparations for elections need to begin now, starting with genuine agreement on the legal framework for them.

49. It is ultimately up to the people of Iraq to take the decisions required on these issues and to then implement them. They are more than capable of doing so. The United Nations is ready to play a supporting role — in helping to facilitate political consensus, as well as in offering technical advice on elections — if the people of Iraq so request it, the Security Council mandates the Organization to play that role, and appropriate arrangements are made to provide security for our personnel.

VII. Recommendations

50. The following are the recommendations of the present report:

1. As outlined above, a consensus exists in Iraq that elections are a necessary step in the process of building democratic governance and reconstruction. No one doubts the importance of holding elections. The caucus-style system as it now stands is not practical and is not a substitute for elections.

2. Credible elections cannot take place by 30 June 2004. Substantial preparations are needed. Elections should be prepared well and should take place in the best possible conditions. Discussions held by the mission at both the political and technical levels have established that preparations will need at least eight months **after** a legal and institutional framework has been established.

3. This implies that an agreement among Iraqi stakeholders on the electoral legal framework should be reached as soon as possible so that preparations can begin for the various operational modalities necessary for the conduct of elections.

4. The mission was told that political agreement on the legal framework may be secured by May 2004. In that case and provided that other conditions are met, elections could be held by the end of 2004 or shortly thereafter. Immediately after reaching the basic agreements, a precise polling date that takes into account the specified time frame should be established and officially announced.

5. The United Nations recommends that in order to start working immediately towards a well organized electoral process that would result in polling at the earliest possible date, an autonomous and independent Iraqi Electoral Commission be established without further delay. Both financial and human resources should be made available to this Commission so that it can begin planning and preparing the process in a timely manner.

6. Many Iraqis already agree that a single elected assembly should be chosen through elections held by the end of 2004 or shortly thereafter, with the dual functions of drafting the country's constitution and at the same time acting as the principal law-making body or legislature. This

course of action has many advantages and would be less of a financial burden on the country.

7. There is also consensus among Iraqis that the 30 June 2004 deadline for the transfer of sovereignty to a provisional government should be maintained, and all parties should cooperate to meet that deadline.

8. The resolution of the timing of the election provides opportunity and space for Iraqis (both those on the Governing Council and those outside the political process) and the Coalition Provisional Authority to engage in a more focused dialogue on the mechanism to which sovereignty will be transferred on 30 June 2004.

9. The United Nations would be willing to offer its assistance to help build consensus among Iraqis on the specific powers, structure and composition of such a provisional governance body and the process through which it could be established.

10. The United Nations would be willing to provide advisory services and technical assistance to support Iraqis in their efforts to establish an electoral legal framework and design and implement the various aspects of the electoral process.

11. Security is of paramount importance, both for the success of these processes and for United Nations participation. Discussions are already under way with the Governing Council and the Coalition Provisional Authority; those discussions need to be intensified to complete arrangements for expanding United Nations activities in Iraq.

Appendix I

Composition of the fact-finding mission

Ambassador Lakhdar Brahimi
Special Adviser to the Secretary-General

Ahmad Fawzi
Spokesman for the Special Adviser to the Secretary-General

Carina Perelli
Director, Electoral Assistance Division
Department of Political Affairs

Jamal Benomar
Special Adviser
United Nations Development Programme

Carlos Valenzuela
Senior Political Affairs Officer
Electoral Assistance Division, Department of Political Affairs

Sadiq Abu Nafissa
Senior Political Affairs Officer
United Nations Assistance Mission for Iraq

Sean Dunne
Political Affairs Officer
Electoral Assistance Division, Department of Political Affairs

Appendix II

Technical report

I. Introduction

Background

1. The 15 November Agreement (hereinafter referred to as the Agreement) signed by the Coalition Provisional Authority and the Iraqi Governing Council outlines a transition plan to achieve sovereignty in Iraq. It provides for a transfer of power to a provisional government on 30 June 2004, following the selection of a transitional national assembly by 31 May 2004. The Agreement calls for the members of the transitional national assembly to be selected through a system of regional caucuses.

2. However, following the signing and announcement of the Agreement, many Iraqis opposed the caucus model, calling for the transitional national assembly to be chosen through direct elections. Opposition to the caucus system was based on the perception that it was open to manipulation and that the members of the transitional national assembly would lack representative legitimacy. On the other hand, other Iraqis expressed their deep mistrust of early elections, claiming that conditions were not ready for a free and fair process. Consequently, a stalemate ensued that critically undermined the acceptability of an Iraqi provisional government formed pursuant to the approach outlined in the Agreement.

Fact-finding mission

3. Following a request from the Iraqi Governing Council and the Coalition Provisional Authority to assist in resolving the stalemate, the Secretary-General agreed to deploy an electoral fact-finding mission (hereinafter referred to as the mission). The terms of reference of the mission called for an assessment on the feasibility of holding direct elections and the determination of the time frame and conditions required for conducting credible elections consistent with United Nations principles and practices. The mission was further mandated to determine whether there were other options within the time frame of the Agreement, acceptable to all parties and guaranteeing a transparent and inclusive mechanism for representing the will of the Iraqi people.

4. The mission was led by Lakhdar Brahimi, Special Adviser to the Secretary-General, and was composed of seven members, including the Director of the Electoral Assistance Division of the Department of Political Affairs as well as two of its Senior Electoral Officers. The mission was deployed to Iraq from 7 February to 16 February 2004. Over this period, the mission met with a range of interlocutors, including Iraqi political, religious and social representatives, academics and experts, as well as pertinent representatives of the Coalition Provisional Authority, ministries and other foreign representatives.

Presentation of the report

5. While the general issue of the transition of power in Iraq is a political one, the study and appraisal of the various modalities for a genuine and credible election is conditioned by technical limitations. The present technical report constitutes the contribution of the technical team to the general report to be presented by the

Secretary-General to the Iraqi Governing Council and the Coalition Provisional Authority, outlining the mission's findings and recommendations.

6. Section II of the technical report studies in some detail the caucus model delineated in the Agreement and the different options presented to revise it. Section III analyses the possibility of direct elections being held before the 30 June 2004 deadline for the scheduled transfer of power. The final assessment in both section II and section III points to the unfeasibility of either modality being implemented successfully within the time frame. Nevertheless, the team noted that there was broad agreement on the need to hold elections as the best way to guarantee the representation of all Iraqi people in the new government and to ensure its necessary legitimacy. Therefore, section IV examines the preconditions for credible transitional elections and highlights the criteria for establishing an approximate time frame for the preparations and conduct of such a process.

II. The caucus model

A. Regional caucus selection

The caucus as presented in the 15 November Agreement

7. The Agreement states that the members of the transitional national assembly are to be chosen by regional caucuses. The plan was formulated in the belief that direct elections before the 30 June 2004 deadline were not possible and that the first democratic government in Iraq should be elected according to a new constitution drafted by Iraqis. The proposed caucus model was also not without precedent in the recent administration of Iraq. The caucus proposal built upon similar processes employed at the provincial and local governance levels and was therefore viewed as an approach with which Iraqis had gained some familiarity. In this light, the selection of the transitional national assembly members through the caucus system was seen as a preferred alternative to direct appointment by the Iraqi Governing Council.

8. The regional caucus model was designed in four phases: (a) the appointment of a 15-member organizing committee in each of the 18 governorates, using the following ratio: five members selected by the Iraqi Governing Council, five by the provincial council and five by the local councils of the five major cities of the governorate; (b) soliciting nominations for candidates to the caucus; (c) selection of the members of each caucus by the organizing committee, through a supra-majority vote of 11/15 for a candidate to be accepted; and (d) the election of representatives to the transitional national assembly by each caucus, using the ratio of one representative per 100,000 citizens. All the regulations of the process were to be included in the Transitional Administrative Law (previously entitled the Fundamental Law).

Caucus model assessment

9. The caucus plan met with widespread opposition from numerous sectors of Iraqi society following the announcement of the Agreement. The mission can attest to the widespread resistance expressed by most people consulted during the mission to the transitional national assembly caucus selection process. Also, it was clear that

the initial assumption concerning the use of the caucus system at the local level did not translate into its acceptance at the national level. Further, views about the caucus model expressed to the mission consistently cited a lack of transparency and simplicity, which in a context of overall mistrust compounded the general Iraqi perception that the process was being manipulated. Fundamentally, by their very composition the organizing committees were perceived as creatures of the Coalition Provisional Authority.

10. The perception of the regional caucus process was in contrast to the explicit policy of the Coalition Provisional Authority that it did not want to have a visible role in the caucus selection or its internal workings. Nonetheless, the absence of oversight bodies that might hear appeals and reinforce the perceived fairness of the process created a situation in which the Coalition Provisional Authority might have been forced to intervene. As each organizing committee was left free to "work to achieve balance between the various groups" in setting its standards and criteria for selection, and given that the term "various groups" was loosely defined, the organizing committees could freely determine the relevant groups in their own communities. This also opened the organizing committee to pressures from different elites to be included in the list of the various groups that needed to be represented, and compounded a widespread fear that the members of Iraqi councils (both at the national and provincial levels) might exert undue influence over the organizing committee and use it as an instrument for the exclusion of individuals and groups.

11. Moreover, a formula for proportional representation at the national level cannot be worked out from the bottom up in an uncoordinated manner. This approach might lead to overrepresentation of smaller groups and factions, potential underrepresentation of citizens who define themselves as just citizens and the consolidation of traditional and extremist groups' power plays over the more moderate ones. It might also lead to violence during the process, as the most vocal will win at the local level, thus enhancing the volatility of the process and increasing the perception that arbitrary decisions are being taken.

Lack of standardized approach

12. From a procedural point of view, the main flaw of the caucus model resides in its lack of standardization, resulting in extreme decentralization and fragmentation. There is no clear definition regarding the procedures to be used; therefore, there are no nationally consistent procedures and the interpretation and application of intent could vary widely from governorate to governorate. In this manner, the model cannot guarantee its overall consistency and coherence. Since the model relies on the total decentralization of criteria and delegating absolute decision-making powers to the organizing committees in the 18 governorates, with no common criteria or shared regulatory framework, it seems inevitable that the process would be perceived as arbitrary and non-transparent.

13. The only formally shared criterion for the Agreement's regional caucus was the number of representatives in that "... each member represents 100,000 citizens according to the general census". This, in itself, also posed a problem, as the figures of the last census (1997) are widely contested. Politically, it is to be expected that local elites and by extension the organizing committee of each governorate would push for an overestimation of their population. As noted above, there was no central

organ or procedure to adjudicate disputes between the different organizing committees in the "war of numbers" that would follow.

Caucus model: final assessment

14. Based on the prevalent concerns regarding its complexity and apparent arbitrariness, the caucus model generated such widespread opposition that it seems politically unviable at this stage. As it stands, it also appears that the caucus model is no longer practicable within the stipulated deadlines. The time frame is already very tight, barely allowing enough time for its implementation without any room for unforeseen circumstances that could delay the process. The complexity of the selection mechanisms would have required that preparation be well advanced at the present time. The exercises on "refreshing" provincial caucuses have shown that these are time-consuming processes that are often difficult to manage and implement on a tight timetable. It follows that the selection of a transitional national assembly through the caucus system is neither politically nor technically viable at this stage.

B. Caucus model revisions

15. In order to improve the caucus model, many possible modifications were envisaged. Those revisions, which ranged from introducing modifications regarding the role and make-up of the organizing committees to encouraging broader participation, centred on resolving some of the major stumbling blocks of the original proposal, in particular the lack of standardized approach, perceptions of non-transparency and the vulnerability to manipulation.

16. However, the various administrative "revisions" of the caucus model in order to make it more inclusive and participatory cannot completely alleviate its inherent deficiencies. They would necessarily complicate its implementation, making it less transparent to the public and requiring additional time to implement. The only manner of substantially making the caucus model more inclusive and participatory would involve turning the process into an indirect election mechanism, organized by a non-partisan administrative structure with standard procedures defined at the national level and applied universally throughout the country. Such a thorough restructuring of the process would imply almost all the requirements of an electoral system, falling short of a universal election. Under the circumstances, there is clearly no time for such an endeavour.

17. Significantly, a number of options have been advanced that promote partial elections to increase the legitimacy and credibility of the caucus. These proposals fall short of direct elections, demanding almost as much preparation without the virtues of a popular vote, and are also impossible to put into practice given the current time frame. Among the options advanced are the holding of a referendum on a slate of candidates at the governorate level; conducting elections for caucus delegates; organizing direct elections from among slates of candidates; or finally, implementing a system of cascading caucuses, a three-tiered elections model from the bottom-up to the selection of regional delegates.

18. Another category of proposals are defined as "hybrid" plans, combining caucuses and direct elections. One such plan, for example, called for elections in Baghdad and other urban areas and caucuses in other parts of the country; a different one called for elections in the "safer" areas (south and north of the country) and the

use of caucuses in the "unsafe" areas (mostly the Sunni triangle). Not only are these options detrimental to a perceived national unity but they also combine the disadvantages of both modalities without resolving the major issues. In particular, they do not address the major obstacles in preparing and organizing direct elections, assuming that security concerns constitute the only consideration when deciding whether early elections are practicable or not. In fact, as will be made clear below, a number of additional elements are essential in considering the feasibility of a transitional election, ranging from political agreements to technical and operational considerations.

19. In conclusion, it is clear that there are no feasible options for substantially revising the caucus model under the time frame adopted by the Agreement in a manner that would respond to the political objections to the initial model or that would be technically viable before the proposed deadlines.

III. Direct elections by 30 June 2004

A. Election versus appointment

20. Direct elections are widely perceived as the best means to elect an assembly that is genuinely representative and has the legitimacy to appoint an Iraqi government. The sensitivity of the current transition period stems from the presence of an occupying power and the legacy of the previous regime, which have intensified the demand for transparent and inclusive representation. As such, Iraqis have expressed their desire to see a legitimate and sovereign Iraqi government as soon as possible, which would be best achieved through elections.

21. There was broad acknowledgement by Iraqi interlocutors to the mission that direct elections were indeed the best source of legitimacy for a representative body; differences arose on the issue of timing, specifically on whether elections before the deadline of 30 June 2004 were possible. The main supporters of elections before 30 June 2004 made the case that elections before the scheduled transfer of power were not only desirable but technically and administratively feasible. A number of documents were presented to the United Nations fact-finding mission in support of this position.

22. The opponents of early elections claimed that early elections would be too divisive and might ignite a civil conflict. They also claimed, however, that from an administrative and technical perspective there was simply no time to organize credible elections before 30 June 2004. Their argument is based on three main considerations: the lack of an electoral law, the lack of a credible electoral register and a security situation which does not allow for free and fair elections.

Electoral roll

23. The main supporters of early elections provided the mission with specific answers to the concerns raised by Iraqis against elections by 30 June 2004. These answers were reinforced by papers presented to the mission, prepared by a number of scholars and officers of the Ministry of Trade, discussing the technical side of the elections and highlighting possible means to produce a voter's list. Their proposal relied on the use of the "public distribution" (or ration card) database, used for the

oil-for-food programme as the basis for deriving an electoral register. The eligible Iraqi voters were classified into three categories: (a) those who have ration cards and are included in the databases managed by the Ministry of Trade and the World Food Programme (WFP) (with regard to inhabitants of the northern governorates); (b) those outside Iraq; and (c) those that have no ration card and are not included in the database. The proposal sought to manage these three broad cases in the following manner:

(a) Of the first group (Iraqis registered in the programme) the proposal estimated that the existing database managed by the Ministry of Trade contains about 23.5 million registrations for the inhabitants in the south and centre of Iraq. It was also asserted that WFP has records of 3.5 million registrations for the northern governorates. The plan assumes that with the information on each registration it is possible to derive accurate voters' lists for those who are 18 years old and above (about 13 million persons), even at the level of small administrative divisions that could serve as electoral districts. Ministry personnel claimed that the rate of accuracy of this database is very high, exceeding 98 per cent in the central and southern provinces, while a similar accuracy could also be achieved in the northern governorates. Ministry of Trade personnel further claimed that by using customized database programmes, they would be able to further correct the records and remove multiple registrations at the provincial and national levels;

(b) For the second classification (Iraqis abroad), the proposal calls for registration and polling abroad. The registration of the Iraqi voters at designated centres will be computerized and the data sent to the computer centre at the Ministry of Trade, where checks against multiple registrations would be conducted. It was claimed that if this system were applied the period of registration would require only one month, while the subsequent process of checking multiple entries would last two weeks;

(c) Finally, for the third classification (unregistered Iraqis), it was proposed that a partial registration exercise for those excluded from the database would be undertaken. This partial registration exercise was estimated as requiring one month.

24. Overall, the proposal offered a time frame for the establishment of the voters' lists of about two months, including a one-month registration period (abroad and within Iraq), two weeks for final checks on multiple registrations and two weeks for the printing of the lists. It was assumed that the amalgamation of the different databases (ration cards, northern governorate records and new registrations) would be carried out during this period. Thus, according to the proposal, it would be possible to have an electoral roll ready for elections before the proposed 30 June 2004 deadline.

Legal and institutional framework

25. In order to gain time, the proposal calls for the use of an old electoral law, subjected to amendments as deemed necessary. The lack of political party regulation is also considered a minor obstacle, as the proposed option is one of allowing "individual candidates" (and not political parties) to compete in the election. However, during subsequent discussions it was proposed that the 1960 Law of Committees would be a suitable framework for political parties. In terms of an electoral management body, the plan proposes a hierarchical structure as follows: (a) a high election supervising committee (at the national level); (b) a main

committee in each governorate (18 committees); (c) an organizing committee in each district (104 committees); (d) a subcommittee at the village level (285 committees); and (e) electoral centres for registration and polling (30,000).

26. The proposal outlined that the membership of the various committees would be in accordance with criteria set by the high committee that would be responsible for supervising the election. The committees would then assign responsibilities within their localities, select and train staff according to a plan approved by the high committee, in cooperation with the Ministries of Planning, Trade and Interior. The electoral centre (or polling centre) would be the smallest administrative unit in charge of conducting the polling, counting the votes and transmitting the results up the hierarchical structure. All the organizing activities would be subject to direct field supervision on the pyramidal basis proposed for the electoral institutional structure. Finally, the proposal calls for United Nations approval and supervision of the process.

Security

27. The proposal also deals with security concerns, outlining the steps that would guarantee a safe environment and the security forces necessary for successful elections. The argument presented is that security does exist in most parts of Iraq, and it could be brought to other places through specific measures on polling day, using both Iraqi and Coalition security forces. Among the elements mitigating the security concerns, the following issues were highlighted: (a) the patriotic feelings of most Iraqis towards elections as a means for national independence and the withdrawal of foreign troops; (b) the presence of new Iraqi security forces (army, police, civil defence forces and site security forces) whose establishment and training has begun under the supervision of the Coalition; (c) the presence of more than 160,000 Coalition force personnel in most of the country's provinces; (d) the fact that a number of political forces and movements present in the political arena have a popular base; (e) the influence of tribes that could be used to provide security and make the elections a success; and (f) the influence of religious and secular leaders.

28. The proposal also highlighted that a national high security committee would need to be created to be headed by one of the members of the Iraqi Governing Council or the Minister of Interior. The committee would include, among others, representatives of the military, the police, the civil defence force, the force for the protection of institutions, the security apparatus, the new intelligence apparatus and the council of tribal leaders, and religious leaders and leaders of political movements and forces or their representatives. Equally, a security committee would be established for every electoral centre, including the local council, police, "imams", chief or chiefs of tribes in the area, women's leagues and notables from the area. A number of specific measures are proposed for polling day, including the closing of all borders 72 hours prior to voting, the restriction of movement on polling day etc. The possibility of having partial elections has also been raised, to concentrate on "safer" areas, or of adopting a "staggered" approach instead of having all-country elections in one day.

B. Assessment: the electoral roll issue

29. One of the most delicate and sensitive issues connected with the direct election refers to the need for a credible and updated electoral register. Not surprisingly, the proposal seeking to justify the feasibility of elections before 30 June 2004 is based strongly on the plan to establish an electoral register in time for early elections.

Census and public information database

30. Historically, Iraqis have relied on an electoral register developed from the population census. The last census conducted in Iraq was in 1997 but its credibility has been fatally undermined due to the perceptions that it was actively manipulated by the previous regime. Further, significant movements of population have occurred in the past several years due to the previous regime and the effects of war. Currently, there is no electoral register derived from the census that could be updated for a direct election in the time period envisaged.

31. Because the 30 June 2004 deadline does not allow for a dedicated voter registration exercise, other options have been contemplated. The proposal of using the public distribution database to derive the electoral rolls, presented by a group of Iraqi scholars and experts, has commanded careful consideration. However, the ration card system is not widely acknowledged as being credible, especially in the south, where it was abused by the previous regime as a means of community and social victimization. Also, anecdotal accounts were provided that fraud against the system was a primary concern. While the public distribution system may be the basis of a derived electoral roll in the future, the mission assessed that the required process of amalgamating, cleaning and verifying the electoral roll could not be technically or credibly undertaken before the 30 June 2004 deadline.

No electoral register

32. One possible option that has not been widely considered is that of *not* using a pre-established electoral register. An electoral roll is a very useful tool for electoral planning but it is not always a required one. In fact, faced with the option of using an imperfect electoral roll, it is often recommended to go to the polls without an electoral roll. If there were to be elections in the time period before the 30 June 2004 transfer of power, this would be the preferred option. Eligible Iraqis would be able to vote anywhere in the country, with one of several documents that would serve as proof of identity and eligibility, without the need for a previously established electoral register. This option offers the possibility of registering voters as they come to vote — in this manner, you could establish a roll to use post facto controls and actually use them as a basis for future elections. But the polling day would undergo substantial complications.

33. The choice of having an election without an electoral roll would, however, condition some of the electoral modalities: for it to work, the representatives of the transitional national assembly would need to be elected from a single national constituency, along political party lists. From the discussions with the political actors, this is a modality that does not seem to be a feasible one. Thus, the political viability of this model is very low. Moreover, the no-roll model would probably create a number of problems concerning credibility, as Iraqis are accustomed to the electoral register and would consider elections without a register as "lower quality"

elections. It therefore appears that this is neither a realistic nor a practical option for the election of a representative body in Iraq at this stage.

C. Assessment: other considerations

34. The main technical aspect of the proposal deals with the establishment of the electoral roll. Nevertheless, this is only one (albeit very important) step in the preparation of the elections. A number of additional operations are necessary in order to prepare credible elections. The proposal presented by the Iraqi academics and public officers does touch (although marginally) on other operational aspects of the electoral preparations: they mention the ballot design and printing, the allocation of voters and an estimate of the cost per voter.

35. None of these issues are satisfactorily handled, however. In order to design a ballot, many questions regarding the modalities of the election will need to have been answered. In fact, it is necessary for the internal procedures, reflecting on the modalities of nomination of parties/candidates, to be able to complete ballot design. The allocation of voters is also a problematic issue, one of the most important ones for any electoral administration; but again the matter is solved by "common sense" instead of a rigorous allocation method, which is likely to create immense problems on polling day. An approximate cost of the election per voter was offered as US$ 5 per voter, without specifying the basis of the estimation. However, this estimated cost (of US$ 5/voter) appears to be heavily underestimated for a first transitional election that includes infrastructure development, recruitment, training and a brand new electoral management body.

36. More fundamentally, the proposal does not recognize the sequential nature of the operational preparations for a credible election: it explicitly states that most operations can be conducted in a parallel manner in order to save time. For these reasons, while presenting interesting proposals, the document cannot be considered conclusive as to the feasibility of holding credible elections in Iraq before 30 June 2004. In fact, based on the experience of the United Nations and the analysis of the situation, it is clear that elections before the 30 June 2004 transfer of power are not a viable option. In order to be able to directly elect the members of a representative body in a credible process the date of the election would need to be delayed beyond the specified deadlines and the process would be required to fulfil a number of conditions, regarding both critical path benchmarks (legal and institutional framework) and the nature and modalities of the elections.

IV. Credible elections: preconditions and time frame

A. Introduction

37. The 30 June 2004 deadline under the Agreement is universally supported by national and international actors as the date for Iraqi sovereignty to be transferred. However, neither the caucus approach (including several proposed "revisions") nor direct elections are considered feasible mechanisms to elect a transitional national assembly within the time frame. In this context, a preferred plan involves the establishment of a transitional government that would serve as a bridging mechanism until elections could be held.

38. Under this plan, a structure would be established with a limited mandate as a "caretaker" government on 30 June 2004. The limitation on the period of office for this provisional government would require the establishment of a clear time frame for conducting elections as early as possible. The ensuing electoral process would serve to establish a popularly elected Iraqi assembly, mandated to draft a constitution and to legislate during the interim period.

39. An early definition of the electoral modalities and timetable would be essential for this plan to work. As such, it is of the utmost importance to establish the minimum time frame required to organize credible elections as early as possible. In consolidated democracies, the time frame of an electoral operation can be readily estimated, given existing legal and institutional frameworks. Similarly, as the electoral institution is already in place and experienced, it is only necessary to make minor revisions before implementing the electoral plan in accordance with fairly precise time frames. In transitional situations, an electoral process usually needs to start from nothing, defining and preparing the elements required to enable the preparation and conduct of the process.

40. The approximate time frame for organizing transitional elections can only be reliably estimated after three major conditions have been met: (a) a legal framework is in place; (b) an institutional framework is in place; and (c) the required resources are made available. Moreover, the time required for the establishment of these preconditions is not easy to estimate, in particular because they involve generating the political consensus necessary for the election to be credible. These preconditions, as well as the elements of a possible time frame to conduct elections as early as possible, are detailed below.

B. Political agreements and the electoral framework

41. An electoral framework defines the rules of the electoral race, reflecting the fundamental political agreements reached among all concerned players. In consolidated democracies, these agreements are generally enshrined in the legal framework (constitution, laws and regulations) regulating the electoral process. In a transitional context, characterized by the absence of a valid electoral framework, those agreements have to be made anew. The modalities agreed then need to be formalized, binding all actors to what will constitute the electoral framework for the election. Without these basic political agreements, the electoral time frame cannot be estimated or preparations for an election started in earnest.

42. Notable in transitional circumstances is a tendency for national actors to refer to past laws which may or may not be applicable. The important issue is to determine whether there is general agreement on the electoral modalities based on negotiation and consensus, and if not how these agreements may be otherwise brokered. It is essential that these early agreements are sufficiently broad and principled so as not to create an impasse for the electoral institution. In this sense, the electoral framework establishes the policy questions of the process but should empower the electoral institution to determine how to implement these decisions. In this manner, the electoral framework may be formalized through several means but is elaborated through the regulations and procedures of the electoral institution.

43. The minimum electoral framework would include basic agreements on the basis and form of representation (electoral system), voter eligibility criteria,

electoral law and political party law. These fundamental agreements must address four main questions defining the electoral modalities: What is to be elected? How is it going to be elected? Who will be able to take part in the process? And who will organize and manage the process?

What is to be elected?

44. If an elected body is to be representative, the basis of that representation must be defined. The mission's discussions revealed that there is a general consensus that representation will be based on geographically defined areas. However, there was no discernible consensus on the level at which that territorial representation would occur, otherwise known as the "unit of representation" that defines the smallest electoral district. In this regard, Iraqi actors offered a range of responses that varied from expectations of national through sub-governorate levels of representation.

45. In terms of facilitating early elections, the bigger the unit of representation the easier and therefore the faster it would be to organize an election. Conversely, the smaller the unit of representation the more complicated the logistics of the election and the more time required to prepare and conduct the process. In the Iraqi context, the fact that the division of the governorates does not fully correspond to the administrative structures (the Kurdish region being the obvious example) will complicate matters and argues for a smaller unit of representation. As a final consideration, should the choice for using electoral districts **not** correspond to existing administrative divisions, an electoral redistricting exercise would be required, which is likely to take considerable time and raise other political complications in connection with credible population estimates.

46. Directly linked to the unit of representation issue is the size of the assembly and the corresponding number of representatives to be elected. Through the various interviews, the fact-finding mission ascertained that there is widespread consensus that there should be a ratio of one representative for every 100,000 Iraqis. With an estimated population of 27 million residing in Iraq, this would mean that the future assembly would be composed of approximately 270 members. The associated question is: How would the number of representatives correlate to the unit of representation? If the choice is of a larger electoral unit (such as the governorates) there is no question that each electoral district would have several representatives. Alternatively, if single member districts are chosen (as several actors advised the mission is the historical case in Iraq) it would be necessary to define new electoral districts, which would necessitate redistricting as noted above.

47. In summary, one of the most sensitive issues requiring agreement among the various parties is the unit of representation. In terms of electoral practicality, using the larger established administrative units would be the most expedient option. Nevertheless, the main issue is whether this option is politically acceptable and the degree to which it would meet the expectations of the different Iraqi parties.

How will votes be counted for seats?

48. A principal concern for any election is the form of representation, translating the votes cast into seats for representatives. Will a majority system or proportional representation be used? If proportional representation is chosen, what will be the formula used for the distribution of seats? Will there be a system of compensatory

seats (favouring representation of minorities)? Will there be any quotas for guaranteeing the representation of minorities?

49. The questions concerning the form of representation are intimately related to the basis of representation discussed above. Historically, Iraq has used the uncommon formula of the "block" vote, that is, a multi-member majority system. Discussions with the various groups revealed a wide divergence between Iraqis on the recommended formula of representation. On the one hand, several Iraqis recommended the historical practice of using a majority system (although it is not clear whether they were referring to a block system or a first-past-the-post system); on the other hand, several insisted that a proportional representation system would be preferable for the sake of reconciliation and inclusiveness.

50. If a proportional representation system were to be favoured, the basic unit of territorial representation would need to be bigger rather than smaller. However, if such a system were to be chosen, there would need to be further consensus to define the formula to be used, as well as agreement in such matters such as thresholds, quotas for minority groups and other related issues. Moreover, a proportional representation system will naturally promote the role of political parties, while a majoritarian system would give preference to individual candidates (the historical modality in Iraq). As such, these considerations lead to the issue of who can take part in the electoral process.

Who can take part in the process?

51. In any transitional election, a fundamental negotiation is to define the eligibility criteria of the participants, underpinned by universal and direct suffrage. For voters, it is important to agree on the basic criteria for the entitlement to vote. International standards generally recognize citizenship, age and location as appropriate criteria to assist in determining the enfranchisement. Despite the seeming simplicity of these criteria, discussions revealed that the enfranchisement definition was contentious among most of the mission's interlocutors, with the exception of age, which was generally agreed as 18 years.

52. The nationality laws in Iraq have historically been relatively restrictive, especially with regard to the case of Iraqis who have adopted a second nationality. The current status of the nationality law is not quite clear, with the Iraqi Governing Council (many of whose members would not be considered Iraqi under existing laws) having approved a new citizenship statute; nevertheless, the Coalition Provisional Authority cannot sign the measure into law as it is bound by the Geneva accords in these matters. In any case, if an electoral agreement is forged it will not be necessary to legally resolve the issue of citizenship but political consensus will be required so that the entitlement to vote can be clarified.

53. The location/residency criterion was also a sensitive issue in the mission's technical discussions. Primarily, the situation of Iraqis outside the territory, both exiles and refugees, met with a range of reactions. Most of the mission's interlocutors insisted that Iraqis abroad should be entitled to vote, yet there was little consideration as to the practical implications of such an option. Where and how should they vote? And, more importantly, for which constituency should they vote? This also introduced the issue of who is entitled to vote in which electoral district? Should the whole of Iraq be considered a single electoral constituency, there would be no problems in this regard; yet this is not the majority position, which, as

explained earlier, expects some kind of territorial representation at a lower level. With regard to Iraqis abroad, there would need to be a decision as to which constituency they would be allowed to vote for: their place of origin (which would create immense practical problems) or should a new specific constituency be created to accommodate the representation of exiled Iraqis?

54. During the mission's discussions, it was clear that there was no consensus as to who is considered eligible to vote in a particular electoral district. A major theme was that eligibility would depend on the place of birth of the voter, rather than on the residence of the voter. This scheme raises a number of serious concerns, many of them practical, but in some cases of sensitive political nature. Some Sunni representatives were demanding that the population census of 1957 should be used as the basis for eligibility since, after that date many people from the provinces moved to Baghdad and should therefore not be allowed to vote for the capital's representatives. The more sensitive issue seems to be around the eligibility to vote in Kirkuk and other areas, where forced Arabization took place under the former regime. Some of the Kurdish representatives expect that before elections can take place, exiles from Kirkuk should be allowed to return so they can vote in their area and "new" Arab residents should not be allowed to vote in Kirkuk as they were settled there under the regime. On the other hand, it should be noted that Arab and Turkmen inhabitants of Kirkuk complain of persecution by Kurds.

55. In counterpoint to enfranchisement are the criteria that may permit legal or administrative disenfranchisement. Under international standards, these are normally persons deemed to have been found mentally incompetent, found guilty of certain types of serious criminal offence or, in some countries, a serving member of the national security forces. In general, discussions revealed that mental incompetence was readily agreed upon; however, views differed with regard to criminal histories and the status of security forces personnel.

56. Equally important as defining the rules for voter eligibility is to determine who will be eligible to run for office. Before even considering the requirements for nomination of candidates, it is important to look at the issue of participation of political parties and their role in the nomination process. Some of the Iraqis interviewed during the mission believed that historically the Iraqi electoral system favoured independent candidates, without political party nomination. These Iraqis posited that future elections should also reflect this approach, implying the adoption of a majoritarian system and a diminished role for political parties. The proponents of proportional representation were at odds with this position and asserted that political parties should be the backbone of the process. In any case, the status of political parties needs to be resolved, and the absence of a political party regulation needs to be addressed. Moreover, these decisions will influence whether individuals, political parties and/or non-political party organizations may nominate candidates. Similarly, this will influence the formation of coalitions and independent candidates leading to defining steps in the evolution of Iraq's political spectrum.

Who manages the electoral process?

57. A major element in the credibility of an election is the quality of the electoral authority, its perceived impartiality and its efficiency in managing the process. The decision as to who will manage and supervise the process is a crucial influence on the successful preparation and conduct of the elections. The definition of the

electoral authority includes not only the electoral administration (responsible for organizing and conducting the process) but also the electoral judiciary (in charge of settling electoral disputes).

58. Formerly, the Iraqi elections were organized by the Ministry of Interior and supervised by the judiciary. Again, many Iraqis point to this model as a historical reference, but it is necessary for all actors to agree on this arrangement, and to be satisfied that it will be an effective means to manage the process credibly, impartially and efficiently. In many transitional elections, the issue of trust is of primary importance, and therefore a model of a completely independent electoral authority is preferred. While defining which of the different models for an electoral management body is the appropriate one for Iraq, it is important that the electoral authority should enjoy the trust of the actors and be a credible one.

C. Institutional build-up

59. In order to organize any election in Iraq in the near future, a credible, independent electoral authority would need to be set up as soon as possible. While it may not be necessary to have a full-fledged electoral administration up and running before the beginning of the electoral process, it is of the utmost importance that the basis of the electoral authority be in place and functioning in order to conduct basic pre-planning, the elaboration of the electoral framework into operational procedures and regulations, and to spearhead the implementation of the operational plan.

60. Not only is it necessary to set up the electoral authority but, it is equally important to establish a functional electoral administration. This element is often disregarded in the prerequisites for a transitional election, although it is a fundamental one. To guarantee the success of an electoral process, the electoral authority needs to be neutral and impartial; just as important, however, it also needs to be effective. Elections constitute a complicated logistical and administrative challenge, possibly the biggest logistical challenge a country can undertake in peacetime. Setting up an electoral administration capable of conducting the process implies massive recruitment and training of electoral personnel at both central and decentralized levels. This is a task that needs to be advanced before engaging in the implementation of an operational plan. It should be stated that having competent people in an electoral administration is not enough; they must also be trained in new procedures and modalities of elections. Further, the time to insert them in the administrative structure needs to be adequately evaluated and taken into account.

61. Before the electoral process unfolds, it is also necessary to act in setting up the structure that will assume the tasks of responding to electoral complaints and settling electoral disputes. The resolution of electoral complaints may be vested in either the judiciary, the electoral institution or in a quasi-judicial tribunal. Several issues are considered essential in the design of this process, especially for national elections, including (a) that there is equitable nationwide access to the electoral resolution mechanism; (b) that the complaints are resolved in a nationally consistent manner; and (c) that the body responsible is perceived as trustworthy and insulated from undue political influence. Previous experience in Iraq highlighted that the judiciary was responsible for overseeing the electoral process. A decision whether this practice should be continued will consider the state of the judiciary during the interim period, whether a new institutional design emerges for the organization and

management of elections, and ultimately the political acceptability by the Iraqi political actors.

62. To allow for the rapid implementation of an electoral operational plan there is a fundamental need for the identified resources to be readily available. While several aspects of an election may be conducted in parallel, there are also choke points in the process which must be cleared before the process can proceed. To allow for smooth transitions between the stages of an election early procurement, recruitment, training and infrastructure development needs to be undertaken so the operation can be carried out with a minimum of disturbance. This is extremely important in transitional circumstances where logistical difficulties can be misinterpreted as political manoeuvres, which undermines the credibility of the electoral institution. Moreover, the cost of the first transitional election normally requires a sizeable investment, which is especially the case if infrastructure costs, security costs and a new electoral register are required. However, the cost of subsequent elections is significantly reduced after the first process.

D. Electoral time frame

Operational requirements

63. An electoral timetable will of course depend on the modalities chosen for the election: an election on a single (national) circumscription under a proportional representation system using party lists will be easier (and quicker) to organize than an election using a first-past-the-post system with a great number of single-member districts. The issue of an electoral register is a sensitive one, and the option chosen for the establishment of a credible electoral roll will affect the length of the process.

64. In terms of establishing a credible electoral roll, a number of different options can be tried — historically in Iraq the electoral rolls have been derived from a population census. This option is not feasible at this stage as a full census is estimated to take up to five years, including preparation time. Moreover, the polling allocation under this modality presents serious problems. Two other options are available: either a dedicated voter registration exercise (the most credible) or deriving the electoral roll from existing databases (such as the public distribution — "ration cards" — database). Nevertheless, it is important to note that in both cases, but particularly the latter one, a social validation period is indispensable — that is to say, a period during which the initial data is exhibited to the public and corrected as required.

65. But as mentioned above, the establishment of an electoral register is only one of the necessary operations to prepare a credible election. Other required stages for the preparation of the process include, among others, the definition of all electoral procedures and the preparation of the necessary procedural manuals, the registration of political parties and/or candidates, a regulation defining political financing, a regulation concerning electoral campaigning, the accreditation of electoral observers, the launching of a public information and voter education initiatives, the procurement and assembling of electoral material (for the various electoral operations), the mapping and choice of polling locations and assignments, and the logistic preparation for polling, counting and tallying of the results. Furthermore, should it be agreed to allow for out-of-country registration and voting for Iraqis

abroad, a full operational plan will need to be designed and carried out for this modality.

66. To a great extent, the technical requirements determine the time frame required for elections to be prepared and conducted. In terms of time frame and from a strictly administrative and logistical perspective, it is possible to estimate a generic timetable for the elections. Nevertheless, the need for preparation time is conditioned not only by the administrative and logistical requirements of preparing the poll but also by the political imperatives to make the process a meaningful one (such as allowing for the institutional development of political movements and channelling of political will).

Security and other social factors

67. As elections are not exclusively technical processes, several sociopolitical conditions are required in order to have credible elections with acceptable results. The sociopolitical context will therefore also have a substantial impact on the electoral time frame. In the current Iraqi context, a fundamental element hampering the establishment of an atmosphere conducive to credible elections is the unstable security situation. There is a need to have a secure environment to allow for the necessary preparations to take place and ensure the integrity of voters, candidates, parties, electoral staff and electoral materials.

68. Lack of security could lead to major disturbances undermining the administration of the election, altering the established timetable and compromising the overall credibility of the process. Just as important, however, is to have an environment that allows for the respect of political rights of candidates, parties and voters, ensuring free campaigning and a free choice. While transitional contexts are not always the most conducive for credible elections, minimum conditions should be ensured to allow for the process to be a successful one whose results are accepted by all parties. Security is therefore a major conditioning factor in ensuring the legitimacy of the process. The current circumstances, resulting in widespread fear and anxiety among the population, are at present a major obstacle to the success of an election. The existence of militias (especially if connected with political movements) will also be a source of coercion and intimidation that would undermine the political credibility of the exercise.

Minimum time frame

69. In countries with conditions and characteristics similar to those of Iraq, it is possible to say that a minimum time for preparing a **credible** transitional election, including a dedicated voter registration exercise, would take no less than eight months **from the time the three conditions presented above are met**. That is to say, by that time the political agreements need to have been formalized into an electoral framework. Also, the basis of a functional electoral management body will need to have been established and the necessary resources made available. Of course, it is assumed that during that period the security conditions would have substantially improved in a manner that would guarantee the integrity of the electoral operations and the political credibility of the process.

E. Conclusion

70. The timing of credible elections in Iraq will be principally influenced by political, technical and security conditions. In the current circumstances and anticipating continuing positive developments, elections in Iraq may be scheduled eight months from the date that the necessary basic agreements, a functioning electoral institution and resources are available. For example, a target date for elections in January 2005 would necessitate these conditions having been met by the end of May 2004. In the assessment of the mission, this would permit credible and unifying elections in Iraq.

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Letter dated 24 February 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Serbia and Montenegro to the United Nations addressed to the President of the Security Council

Upon the instruction of my Government, I have the honour to request that the letter dated 23 February 2004 addressed to you by Goran Svilanović, Minister for Foreign Affairs of Serbia and Montenegro (see annex), be circulated as a document of the Security Council.

(*Signed*) Roksanda **Ninčić**
First Counsellor
Chargé d'affaires a.i.

04-24956 (E) 250204

Annex to the letter dated 24 February 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Serbia and Montenegro to the United Nations addressed to the President of the Security Council

23 February 2004

I am writing to you deeply disturbed by the latest crime in Kosovo and Metohija in which 36-year old Zlatomir Kostić from Kosovo Polje and 24-year old Milijana Marković from Staro Gracko were perfidiously ambushed and killed.

The fact that since the deployment of KFOR and UNMIK in Kosovo and Metohija as many as 22 Serbs, in Lipljan alone, were killed and that none of the crimes were resolved causes particular indignation. The tragic killing of two innocent civilians brings into serious question the decision of KFOR Command made just a few days before the crime to withdraw the multinational brigade "Centre" in charge of security in the area of Lipljan.

The proclaimed goals of the United Nations to ensure security, freedom of movement and respect for human and minority rights to all citizens of Kosovo and Metohija have been serious undermined. It is difficult to discuss the implementation of any standard of a democratic society in a situation in which KFOR and UNMIK cannot guarantee the Serbs even the right to life. Unfortunately, even the strongest condemnations by the Security Council and other relevant international organizations have failed to contribute to the improvement of the security situation or to the identification and apprehension of the perpetrators of these crimes. Allow me to recall the still unresolved murders of 14 farmers in Staro Gacko, the Stolić family in Obilić and two children in Goraždevac. Such inefficiency on the part of KFOR and UNMIK seriously brings into question their authority, as well as the authority of the Security Council which mandated them to implement resolution 1244 (1999). It also sends a message to extremists and terrorists in Kosovo and Metohija that their ethnically motivated violence will continue to go unpunished.

I am convinced that no one can accept the fact that at the beginning of the twenty-first century the life of each and every Serb is being threatened in a part of Europe where a United Nations force is deployed. It is therefore inappropriate to find fault with Serbs for having reservations vis-à-vis some of the initiatives which claim that a satisfactory level of security in Kosovo and Metohija has been achieved and that a situation has been created in which they can protect their interests and exercise their rights within the existing institutions. Moreover, it does not stand to reason that the international community should single out parallel institutions as one of the major problems in the establishment of the rule of law in Kosovo and Metohija while the Serbs live in permanent fear in the face of continuing crime and terror.

The latest killings tragically prove that so far all statements, condemnations and demands of the Security Council have unfortunately not succeeded in putting an end to terror in Kosovo and Metohija. This time, therefore, Serbia and Montenegro expects the Security Council to undertake a decisive and concrete action in order to identify and bring to justice the perpetrators of these and other crimes, thus preventing further crimes and ensuring security for all citizens in Kosovo and Metohija. Otherwise, instead of creating a multi-ethnic society to which we are all

committed, we shall soon have an ethnically pure Kosovo and Metohija. I am convinced that neither the Security Council nor any member of the international community is ready to assume responsibility for such a course of events.

I should be grateful if you would circulate the present letter as a document of the Security Council.

(*Signed*) Goran **Svilanović**

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Security Council
Fifty-ninth Year

Review of the implementation of the Declaration on the Strengthening of International Security

Measures to eliminate international terrorism

Identical letters dated 24 February 2004 from the Permanent Representative of Israel addressed to the Secretary-General and the President of the Security Council

I am writing following the most recent horrific Palestinian terrorist attack perpetrated against the citizens of Israel.

Sunday, 22 February 2004, at approximately 8.30 a.m. (local time) a Palestinian terrorist carried out a grave homicide attack on a crowded commuter bus in central Jerusalem, killing eight people and wounding 73, six seriously. Many of the victims were young students on their way to school. The blast ripped through public bus No. 14 opposite Liberty Bell Park as it was making its way towards the city centre. The bomb was packed with metal and iron shards in order to effect maximum pain and injury on the victims. The force of the explosion, which rattled buildings along the thoroughfare, scattered body parts and wreckage throughout the area of the blast, creating a scene of despicable horror. The murdered were Ilan Avisidris, 41; Lior Azulai, 18; Netanel Havshush, 20; Yuval Ozana, 32; Yaffa Ben-Shimol, 57; Benayahu Yehonatan Zuckerman, 18 — all of Jerusalem — Rahamim Duga, 38, of Mevasseret Zion; and Yehuda Haim, 48, of Givat Ze'ev.

The Al Aqsa Martyrs Brigades, of Yasser Arafat's own Fatah movement, claimed responsibility for the attack despite official condemnation of the attack by the Palestinian Authority. The bomber was identified as Mohammed Za'ul, 23, from the village of Hussan near Bethlehem. The terror cell responsible for yesterday's bombing reportedly also carried out the suicide attack on Jerusalem public bus No. 19 on 29 January, which killed 11 passengers. Jerusalem public bus No. 14 bus was previously targeted six months ago on 11 June 2003 when a Palestinian terrorist murdered 17 passengers in a homicide bombing.

It is grim and ironic that at the same time Israel must bury the eight victims of Sunday's bombing, the Palestinians are using the International Court of Justice to attack Israel for building a fence that could have saved the victims' lives. Palestinian

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terrorists succeeded in perpetrating both yesterday's attack and the previous attack in Jerusalem by infiltrating through an area where the security fence has not yet been completed. In areas currently protected by the security fence, the incidence of terrorist attacks has been significantly reduced.

Yesterday's attack demonstrates yet again the Palestinian leadership's morally bankrupt strategy of support for terrorist activities and depraved inaction in the face of rampant incitement and a mounting infrastructure of terrorism. The ongoing failure of the Palestinian Authority to fulfil its counter-terrorist obligations constitutes a brazen violation of the most basic obligations of international law, human rights, Security Council resolutions and the road map itself. In light of this interminable policy of complicity by the Palestinian Authority, Israel remains obligated to take the necessary defensive measures against the campaign of terrorism that was forced upon it.

Israel calls upon the international community to make clear to the Palestinian leadership and to those regimes sponsoring terrorism in the region its absolute rejection of terrorist tactics, and its acceptance of nothing less than the complete dismantling of terrorist organizations and relentless efforts to prevent terrorism and bring its perpetrators and supporters to justice, in accordance with international law, signed agreements between the parties and Security Council resolutions, in particular resolution 1373. Only a united and uncompromising stand against the perpetrators of these crimes — in all international and domestic forums — can bring an end to the Palestinian strategy of terrorism and violence and make peace between the peoples of the region possible. Rewards for the continuing Palestinian policy of intransigence and terror, in the form of political concessions or the toleration of one-sided initiatives in the organs of the United Nations, can only embolden the terrorists and undermine efforts aimed at achieving a peaceful settlement.

I submit this letter in follow-up to numerous letters detailing the campaign of Palestinian terrorism launched in September 2000, which document the crimes for which the terrorists and their supporters must be held fully accountable.

I should be grateful if you would arrange to have the text of this letter circulated as a document of the fifty-eighth session of the General Assembly, under agenda items 156 and 67, and of the Security Council.

(*Signed*) Dan **Gillerman**
Ambassador
Permanent Representative of Israel to the United Nations

United Nations S/2004/143

Security Council

Distr.: General
25 February 2004

Original: English

Letter dated 23 February 2004 from the Permanent Representative of Jamaica to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to request an urgent meeting of the Security Council to consider the situation concerning Haiti in the light of the steadily deteriorating situation, which affects peace and stability in the region.

The Government of Jamaica is making this request on behalf of the States members of the Caribbean Community.

(*Signed*) Stafford **Neil**
Ambassador
Permanent Representative

04-25015 (E) 250204

United Nations S/2004/144

Security Council

Distr.: General
25 February 2004

Original: English

Letter dated 24 February 2004 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement by the Irish Presidency on behalf of the European Union of 27 January 2004 on proposals for constitutional change in Ukraine, which was distributed on 19 February 2004 as a document of the Security Council (S/2004/110).

The Ukrainian side has thoroughly examined that statement. The European Union position has been noted and taken into account by the Government of Ukraine. The issues raised in the statement are discussed within the existing formats of political dialogue with the European Union and other interested international partners in the spirit of openness and transparency on the part of Ukraine, therefore the circulation by the Irish Presidency of the statement as a document of the Security Council cannot but be surprising.

The Ukrainian side reiterates its commitment to the European course, European values, and the international obligations undertaken. The President and the Government stand for strict adherence to the Constitution, the legislation of Ukraine, and the European norms and standards during the constitutional reform process and during the preparation for and the conduct of future Presidential elections.

Particular attention is paid by the Government of Ukraine to the holding of free and fair Presidential elections and the creation of equal opportunities for all candidates during the Presidential campaign. The utmost efforts will be made to ensure the constitutional rights of the citizens of Ukraine, in particular the right to assembly and to freedom of speech etc.

The Constitution of Ukraine has clearly established the procedure of amending the Fundamental Law, as well as the ways of appealing possible procedural violations. The Verkhovna Rada (Parliament) of Ukraine is the supreme body, empowered by the Constitution of Ukraine to adopt decisions on amendments to the Fundamental Law.

Proposals on transition to a parliamentary-presidential form of State governance have many times been put forward by representatives of various political forces in Ukraine. People's deputies of the parliamentary opposition submitted a relevant draft law to the Verkhovna Rada of Ukraine of the previous convocation. By submitting to the Verkhovna Rada of Ukraine in March 2003 the

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draft law on amendments to the Constitution of Ukraine, the President of Ukraine furthered the realization by legal means of the ideas of political reform that were expressed both during the electoral campaign in 2002 and before by all political forces which are now represented in the Parliament.

The holding on 3 February 2004 of an extraordinary session of the Verkhovna Rada, where changes to the resolution of the Verkhovna Rada of Ukraine on "Preliminary adoption of draft law on the introduction of amendments to the Constitution of Ukraine (No. 4105)" were adopted by the representatives of the parliamentary majority and opposition, testified to the search for and the finding of compromise decisions. That resolution was supported by the constitutional majority of the Ukrainian Parliament, namely by 304 people's deputies of Ukraine — representatives of 10 out of 12 political factions and groups, including two from the opposition.

The above-mentioned amendments reflect the main proposals of the opposition political forces. In particular, the norms stipulating the election of the President of Ukraine by the Verkhovna Rada and setting a 10-year term of office for judges were taken out of draft law 4105, and the provisions of the effective Constitution of Ukraine regarding direct election of the President of Ukraine and the permanent tenure of judges were left in force.

That decision also took into account the recommendation of the Venice Commission regarding non-limitation of the term of office for judges as well as relevant recommendations contained in resolution 1364 (2004) of 29 January 2004 of the Parliamentary Assembly of the Council of Europe.

The adoption of that decision contributed to the breaking of the stalemate in the work of the Verkhovna Rada and to finding further compromises between the political forces in the Parliament. As a result of achieving mutual understanding, on 18 February 2004 the leaders of 10 factions and groups of the Parliament signed an agreement on the realization of political reform, which takes into account the interests of the majority as well as opposition factions, who support the very idea of the reform.

Similarly, on the basis of consideration of the positions of various political forces, including the opposition, on 19 February 2004 the Verkhovna Rada of Ukraine formed a new composition of the Central Electoral Commission, which was another matter of concern for the European Union.

Thus, recent months have convincingly proved the ability of Ukraine to settle the issues of internal development on the basis of the high standards of a democratic State based on the rule of law. Obviously, Constitutional reform is a domestic political issue but, in the process of its implementation, where it is in line with Ukrainian realities, the proposals of the European Union, the Council of Europe, and the Venice Commission are taken into account. Ukraine is interested in further active utilization of the existing formats of political dialogue with the European Union in order to exchange views on progress in the implementation of the constitutional reform, and the preparation for and conduct of the Presidential elections in Ukraine.

Respecting the opinion of the European Union, I would like to recall that the issues related to the implementation of constitutional reform in Ukraine are internal matters of our country.

I should be grateful if the text of the present letter could be circulated as a document of the Security Council.

(*Signed*) Valeriy **Kuchynsky**
Ambassador
Permanent Representative

United Nations S/2004/145

Security Council

Distr.: General
25 February 2004
English
Original: French

Letter dated 25 February 2004 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

Following our consultations this morning, I have the honour to transmit herewith a statement issued by the Minister for Foreign Affairs of France, Dominique de Villepin. I should be very grateful if you could circulate it as a document of the Security Council.

(*Signed*) Jean-Marc **de La Sablière**

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Annex to the letter dated 25 February 2004 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

[Original: English and French]

Statement by the Minister for Foreign Affairs of France, Dominique de Villepin, on the situation in Haiti

25 February 2004

The situation in Haiti is continuing to deteriorate.

A race in under way between those who support violence and those who are still hoping for a peaceful solution. Haiti is now threatened with chaos. It is the duty of the international community to assume its responsibility to preserve the country from disorder and violence.

I have spoken several times yesterday and today with Colin Powell, other foreign colleagues and several Haitian political leaders. I will in theory be meeting with representatives of the two parties in Paris this Friday. The path we tread is a narrow one, for we must take into account both democratic and constitutional principles, refusing to let force have the last word and facing reality such as it is: the regime has reached an impasse and has already departed from constitutional legality.

What, in this context, should be the objective of the international community? A political solution must be defined that brings together all those forces in the country that refuse to return to its darkest hours.

To achieve this, the best formula remains the establishment of a transitional Government of national unity presided over by a prime minister designated according to the CARICOM plan. But to break the current impasse, the political process must be revived with an accelerated timetable: that is why, if this transition Government, representing a large national majority, should decide to proceed with the required elections before the summer, France will provide the necessary support.

France is prepared to play a full role in the international mobilization effort. To that end, it proposes an initiative that broadens the CARICOM plan. The initiative would be structured around the following points:

- The immediate establishment of a civilian peacekeeping force. This international force would be responsible for guaranteeing the return to public order and supporting the international community's action on the ground. It would provide support for a Government of national unity
- International assistance for preparing the presidential election by establishing an electoral commission, instituting legitimate voter registration rolls and organizing international observer missions
- The delivery of international humanitarian aid
- The dispatch of human rights observers
- A long-term commitment to providing international aid for the economic and social reconstruction of the country

All of the above must be legitimized and implemented by the international community.

- Our proposals could be submitted to the OAS and CARICOM and the plan, thus strengthened, could be conveyed to the United Nations for adoption by the Security Council.

- It would then be up to the Secretary-General of the United Nations to appoint a special representative who would be in charge of implementing the plan on the ground and, more particularly, coordinating among the various organizations that would be induced to intervene, such as the Red Cross, the Commission on Human Rights and NGOs.

- This international mobilization could involve regional organizations (OAS, CARICOM) as well as the various United Nations bodies and the European Union.

While there is not yet reason to lose hope, the threat of growing violence in Haiti today is real. Too much blood has already spilled, however, and we must interrupt this spiral.

That is why France is calling on everyone to respond urgently:

- The churches have an important role to play, and we invite them to renew their efforts.

- The political opposition must open a new phase of negotiations.

- As for President Aristide, he bears heavy responsibility for the current situation. It is up to him to accept the consequences while respecting the rule of law. It is his decision; it is his responsibility. Everyone can clearly see that a new page must be turned over in Haiti's history, while the dignity and integrity of all the protagonists must be respected.

United Nations S/2004/146

Security Council

Distr.: General
27 February 2004

Original: English

Draft resolution

The Security Council,

Recalling its resolutions 1464 (2003) of 4 February 2003, 1479 (2003) of 13 May 2003, 1498 (2003) of 4 August 2003, 1514 (2003) of 13 November 2003, 1527 (2004) of 4 February 2004, and the statements by its President on Côte d'Ivoire,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and *recalling* the importance of the principles of good neighbourliness, non-interference and regional cooperation,

Recalling that it endorsed the agreement signed by the Ivorian political forces in Linas-Marcoussis on 24 January 2003 (S/2003/99) (the Linas-Marcoussis Agreement) approved by the Conference of Heads of States on Côte d'Ivoire, held in Paris on 25 and 26 January 2003,

Taking note with satisfaction of the recent progress, in particular the return of the Forces Nouvelles to the Government, the agreement reached on the implementation of the programme of disarmament, demobilization and reintegration, and the talks between the President of the Republic of Côte d'Ivoire and the Forces nouvelles,

Considering that the Ivorian parties have made the progress called for by the Secretary-General towards the steps mentioned in paragraph 86 of his report on Côte d'Ivoire of 6 January 2004 (S/2004/3), as confirmed to the Council on 4 February 2004, and *encouraging* the Ivorian parties to continue their efforts in that direction,

Calling on the parties and the Government of National Reconciliation to take all necessary steps to prevent further violations of human rights and international humanitarian law and to put an end to impunity,

Reaffirming also its resolutions 1325 (2000) on women, peace and security, 1379 (2001) and 1460 (2003) on children in armed conflicts as well as its resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflicts,

Welcoming and *encouraging* efforts by the United Nations to sensitize peacekeeping personnel in the prevention and control of HIV/AIDS and other communicable diseases in all its peacekeeping operations,

Deeply concerned by the deteriorating economic situation in Côte d'Ivoire and its serious impact on the subregion as a whole,

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Welcoming the commitment of the African Union in supporting the process of national reconciliation in Côte d'Ivoire,

Recalling its full support for the efforts of the Economic Community of West African States (ECOWAS) and France to promote a peaceful settlement of the conflict, and *welcoming*, in particular, the effective action taken by the ECOWAS forces in order to stabilize the country,

Taking note of the message addressed to the Security Council on 10 November 2003 by the President of the Republic of Côte d'Ivoire, in which he requested the transformation of the United Nations Mission in Côte d'Ivoire (MINUCI) into a peacekeeping operation,

Taking note of the request made by ECOWAS to the Security Council on 24 November 2003 to establish a peace keeping operation in Côte d'Ivoire,

Noting that lasting stability in Côte d'Ivoire will depend on peace in the subregion, especially in Liberia, and *emphasizing* the importance of cooperation among the countries of the subregion to this end, as well as the need for co-ordination of the efforts of the United Nations Missions in the subregion to contribute to the consolidation of peace and security,

Having considered the report of the Secretary-General on Côte d'Ivoire of 6 January 2004 (S/2004/3 and addenda 1 and 2),

Taking note of the letter of the President of the General Assembly of 8 January 2004 (S/2004/100) addressed to the President of the Security Council,

Aware of the persistent challenges to the stability of Côte d'Ivoire and *determining* that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to establish the United Nations Operation in Côte d'Ivoire (UNOCI) for an initial period of 12 months as from 4 April 2004, and *requests* the Secretary-General to transfer authority from MINUCI and the ECOWAS forces to UNOCI on that date, and *decides* therefore to renew the mandate of the United Nations Mission in Côte d'Ivoire (MINUCI) until 4 April 2004;

2. *Decides* that UNOCI will comprise, in addition to the appropriate civilian, judiciary and corrections component, a military strength of a maximum of 6,240 United Nations personnel, including 200 military observers and 120 staff officers, and up to 350 civilian police officers, as required to perform the mandated tasks described in the following paragraph 6;

3. *Requests* the Secretary-General to encourage the United Nations missions in West Africa to share logistic and administrative support, to the extent possible, without prejudicing their operational capabilities with respect to their mandates, in order to maximize effectiveness and minimize the cost of the missions;

4. *Requests* UNOCI to carry out its mandate in close liaison with the United Nations missions in Sierra Leone and in Liberia, including especially in the prevention of movements of arms and combatants across shared borders and the implementation of disarmament and demobilization programmes;

5. *Reaffirms* its strong support for the Secretary-General's Special Representative and *approves* his full authority for the coordination and conduct of all the activities of the United Nations system in Côte d'Ivoire;

6. *Decides* that the mandate of UNOCI, in coordination with the French forces authorized in paragraph 16 below, shall be the following:

Monitoring of the ceasefire and movements of armed groups

(a) To observe and monitor the implementation of the comprehensive ceasefire agreement of 3 May 2003, and investigate violations of the ceasefire,

(b) To liaise with the National Armed Forces of Côte d'Ivoire (FANCI) and the military elements of the Forces Nouvelles in order to promote, in coordination with the French forces, the re-establishment of trust between all the Ivorian forces involved, as stated in its resolution 1479 (2003),

(c) To assist the Government of National Reconciliation in monitoring the borders, with particular attention to the situation of Liberian refugees and to the movement of combatants,

Disarmament, demobilization, reintegration, repatriation and resettlement

(d) To assist the Government of National Reconciliation in undertaking the regrouping of all the Ivorian forces involved and to ensure the security of their cantonment sites,

(e) To help the Government of National Reconciliation implement the national programme for the disarmament, demobilization and reintegration of the combatants (DDR), with special attention to the specific needs of women and children,

(f) To coordinate closely with the United Nations missions in Sierra Leone and in Liberia in the implementation of a voluntary repatriation and resettlement programme for foreign ex-combatants, with special attention to the specific needs of women and children, in support of the efforts of the Government of National Reconciliation and in cooperation with the Governments concerned, relevant international financial institutions, international development organizations and donor nations,

(g) To ensure that the programmes mentioned in paragraphs (e) and (f) take into account the need for a regional approach,

(h) To guard weapons, ammunition and other military materiel handed over by the former combatants and to secure, neutralize or destroy such materiel,

Protection of United Nations personnel, institutions and civilians

(i) To protect United Nations personnel, installations and equipment, provide the security and freedom of movement of United Nations personnel and, without prejudice to the responsibility of the Government of National Reconciliation, to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment,

(j) To support, in coordination with the Ivorian authorities, the provision of security for the ministers of the Government of National Reconciliation,

Support for humanitarian assistance

(k) To facilitate the free flow of people, goods and humanitarian assistance, inter alia, by helping to establish the necessary security conditions,

Support for the implementation of the peace process

(l) To facilitate, in cooperation with ECOWAS and other international partners, the re-establishment by the Government of National Reconciliation of the authority of the State throughout Côte d'Ivoire,

(m) To provide oversight, guidance and technical assistance to the Government of National Reconciliation, with the assistance of ECOWAS and other international partners, to prepare for and assist in the conduct of free, fair and transparent electoral processes linked to the implementation of the Linas-Marcoussis Agreement, in particular the presidential election,

Assistance in the field of human rights

(n) To contribute to the promotion and protection of human rights in Côte d'Ivoire with special attention to violence committed against women and girls, and to help investigate human rights violations with a view to help ending impunity,

Public information

(o) To promote understanding of the peace process and the role of UNOCI among local communities and the parties, through an effective public information capacity, including the establishment as necessary of a United Nations radio broadcasting capability,

Law and order

(p) To assist the Government of National Reconciliation in conjunction with ECOWAS and other international organizations in restoring a civilian policing presence throughout Côte d'Ivoire, and to advise the Government of National Reconciliation on the restructuring of the internal security services,

(q) To assist the Government of National Reconciliation in conjunction with ECOWAS and other international organizations in re-establishing the authority of the judiciary and the rule of law throughout Côte d'Ivoire;

7. *Requests* the Secretary-General to give special attention to the gender and child-protection components within the staff of UNOCI;

8. *Authorizes* UNOCI to use all necessary means to carry out its mandate, within its capabilities and its areas of deployment;

9. *Requests* the Secretary-General and the Government of National Reconciliation to conclude a status-of-force agreement within 30 days of adoption of this resolution, taking into consideration General Assembly resolution 58/82 on the scope of legal protection under the Convention on the safety of United Nations and associated personnel, and *notes* that, pending the conclusion of such an agreement, the model status-of-forces agreement dated 9 October 1990 (A/45/594) shall apply provisionally;

10. *Stresses* the importance of the complete and unconditional implementation of the measures provided for under the Linas-Marcoussis Agreement, and *demands* that the parties fulfil their obligations under the Linas-Marcoussis Agreement so that, in particular, the forthcoming Presidential election can be held in 2005 in accordance with the constitutional deadlines;

11. *Calls upon* all parties to cooperate fully in the deployment and operations of UNOCI, in particular by guaranteeing the safety, security and freedom of movement of United Nations personnel as well as associated personnel throughout the territory of Côte d'Ivoire;

12. *Reaffirms*, in particular, the need for the Government of National Reconciliation to undertake the complete and immediate implementation of the disarmament, demobilization and reintegration (DDR) programme, including the disbanding of all armed groups, in particular the militias, the curbing of all kinds of disruptive street protests, especially of the various youth groups, and the restructuring of the armed forces and the internal security services;

13. *Urges* the international community to continue considering how it might help further economic development in Côte d'Ivoire with a view to achieving long-term stability in Côte d'Ivoire and the whole subregion;

14. *Requests* the Secretary-General to keep the Council regularly informed of the situation in Côte d'Ivoire, the implementation of the Linas-Marcoussis Agreement and the implementation of the mandate of UNOCI, and to report to it in this regard every three months, including a review of the troop level with a view to a phasing down in light of the progress achieved on the ground and the remaining tasks to be fulfilled;

15. *Decides* to renew until 4 April 2004 the authorization given to the French forces and ECOWAS forces through its resolution 1527 (2004);

16. *Authorizes* for a period of 12 months from 4 April 2004 the French forces to use all necessary means in order to support UNOCI in accordance with the agreement to be reached between UNOCI and the French authorities, and in particular to:

- Contribute to the general security of the area of activity of the international forces,
- Intervene at the request of UNOCI in support of its elements whose security may be threatened,
- Intervene against belligerent actions, if the security conditions so require, outside the areas directly controlled by UNOCI,
- Help to protect civilians, in the deployment areas of their units;

17. *Requests* France to continue to report to it periodically on all aspects of its mandate in Côte d'Ivoire;

18. *Decides* to remain actively seized of the matter.

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Security Council

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26 February 2004
English
Original: French

Letter dated 26 February 2004 from the Permanent Representative of Benin to the United Nations addressed to the President of the Security Council

I have the honour to request that, in conformity with the relevant provisions of the Charter of the United Nations and with rule 39 of the provisional rules of procedure of the Security Council, Mr. Ridha Bouabid, Permanent Observer for the International Organization of la Francophonie, be permitted to participate without voting rights in the public meeting of the Council on Haiti that will be held on 26 February 2004.

(*Signed*) Joël W. **Adechi**
Ambassador
Permanent Representative of Benin to the United Nations

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United Nations S/2004/148

Security Council

Distr.: General
26 February 2004

Original: English

Letter dated 26 February 2004 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 26 February 2004, from the Secretary-General of the Organization of American States (see annex). I should be grateful if the present letter and its annex could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

04-25195 (E) 260204

Annex

Letter dated 26 February 2004 from the Secretary-General of the Organization of American States to the Secretary-General of the United Nations

The Permanent Council of the Organization of American States met this morning in Special Session, at the request of the Caribbean Community (CARICOM) Group of States, to consider events in Haiti and approved resolution CP/RES.862 (1401/04) entitled "Situation in Haiti". In fulfilment of the mandates contained in its operative paragraphs 1 and 3, I have enclosed a copy of the said resolution (see appendix I), as well as the request of CARICOM (CP/INF.4948/04) (see appendix II), for your information and that of the Security Council.

(*Signed*) Chaser **Gaviria**
Secretary-General

Appendix I to the letter dated 26 February 2004 from the Secretary-General of the Organization of American States to the Secretary-General of the United Nations

[Original: English and Spanish]

CP/RES. 862 (1401/04)

SITUATION IN HAITI

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

REAFFIRMING all previous relevant resolutions on the situation in Haiti;1/

REITERATING Permanent Council resolution CP/RES. 861 (1400/04), which, inter alia, condemns the violence in Haiti, supports the CARICOM initiative aimed at promoting a peaceful resolution of the situation, and calls upon all parties to ensure the full, safe, and unhindered access of humanitarian personnel and assistance to all civilians who need it;

RECOGNIZING the important role of the initiative of the Caribbean Community (CARICOM) to help to resolve the political crisis and of the OAS Special Mission for Strengthening Democracy in Haiti;

DEEPLY CONCERNED by the deterioration of the situation in Haiti and its effects on the civilian population; and

EXPRESSING its profound regret that the opposition has not accepted the CARICOM Plan, which offers the best prospects for a peaceful resolution to the current crisis, and expressing the hope that they will reconsider,

RESOLVES:

1. To call upon the United Nations Security Council to take the necessary and appropriate urgent measures, as established in the Charter of the United Nations, to address the crisis in Haiti.

2. To reaffirm its support for the OAS Special Mission in Haiti and its activities in accordance with all relevant OAS resolutions, and, in particular, its support for the CARICOM initiative, designed to promote a solution to the situation in Haiti.

3. To request the Secretary General to remain in close contact with the Secretary-General of the United Nations and his representatives to ensure coordination and complementarity in the roles of the two organizations, in particular taking into account the activities of the OAS Special Mission in Haiti, and to report back to this Council on measures to this end.

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1. Permanent Council resolution CP/RES. 822 (1331/02), "Support for Strengthening Democracy in Haiti"; CP/RES. 806 (1303/02) corr. 1, "The Situation in Haiti"; CP/RES. 786 (1267/01), "Support for Democracy in Haiti"; and CP/RES 861 (1400/04) "Support for Public Order and Strengthening Democracy in Haiti"; and General Assembly resolutions AG/RES. 1959 (XXXIII-O/03), "Support for Strengthening Democracy in Haiti"; AG/RES. 1841 (XXXII-O/02), "The Situation in Haiti"; and AG/RES. 1831 (XXXI-O/01), "Support for Democracy in Haiti."

Appendix II to the letter dated 26 February 2004 from the Secretary-General of the Organization of American States to the Secretary-General of the United Nations

[Original: English]

CP/INF.4948/04

The Secretary of the Permanent Council of the Organization presents his compliments to the Permanent Representatives and is pleased to advise that, in keeping with a request made by the Caribbean Community (CARICOM) Group of States, the Chair has convened a special meeting of the Council to be held on Thursday, February 26, 2004, at 11:00 a.m., in the Hall of the Americas.